THE ALL ENGLAND LAW REPORTS

Tables and Index 1977

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All England Law Reports

TABLES AND INDEX 1977

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Introduction

The Tables and Index 1977 covers all the cases reported in the three 1977 volumes of the All England Law Reports. It is a continuation of the consolidated Tables and Index 1936–1976. It follows the same pattern as the consolidated index and reference should therefore be made to the Introductions to volumes 1 and 2 of the consolidated index for information concerning the use of the 1977 index.

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Readers who wish to have a comprehensive index to the whole series, should purchase the Consolidated Tables and Index 1936–1976 and subscribe to the annual cumulative indexes which will be published from 1978 onwards and which, when published, will replace the separate annual indexes for 1977 onwards on a cumulative basis.

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Applied, R v Sutton [1977] **3** 476

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Dicta followed, R v Kelt [1977] **3** 1099

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Applied, Riddick v Thames Board Mills Ltd [1977] **3** 677

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Dictum applied, Starr v National Coal Board [1977] **1** 243
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Applied, Biggs v Biggs and Wheatley [1977] **1** 20
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Affirmed [1977] **2** 545, CA
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Considered, Argy Trading Development Co Ltd v Lapid Developments Ltd [1977] **3** 785
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Dictum applied, R v Hambery [1977] **3** 561

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Reversed [1977] **2** 41, CA
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Affirmed [1977] **3** 996, HL
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Dictum applied, Surrendra Overseas Ltd v Government of Sri Lanka [1977] **2** 481
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Dictum applied, Surrendra Overseas Ltd v Government of Sri Lanka [1977] **2** 481
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Applied, Smethurst v Smethurst [1977] **3** 1110
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Distinguished, Cann v Cann [1977] **3** 957
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Dictum applied, Levison v Patent Steam Carpet Cleaning Co Ltd [1977] **3** 498
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Dicta applied, Connor v Paterson [1977] **3** 516

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Dictum applied, Tito v Waddell (No 2) [1977] **3** 129
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Distinguished, Cookson v Knowles [1977] **2** 820
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Distinguished, Levison v Patent Steam Carpet Cleaning Co Ltd [1977] **3** 498
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Affirmed [1977] **2** 331, CA
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Dictum applied, Birkett v James [1977] **2** 801
Inwards v Baker [1965] **1** 446, CA
Applied, Jones (A E) v Jones (F W) [1977] **2** 231
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Dictum applied, Tito v Waddell (No 2) [1977] **3** 129

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Dictum applied, K (minors) wardship : care and control), Re [1977] **1** 647
Followed, S (B D) v S (D J) (infants : care and consent) [1977] **1** 656
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Affirmed [1977] **1** 576, CA
Dictum applied, Parsons v Mather & Platt Ltd [1977] **2** 715
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Test of unreasonableness—Welfare of child—Importance of welfare of child—Difficulty of justifying reasonableness of withdrawal of consent after child placed with adopters or after mother has given formal consent to adoption—Adoption Act 1958, s 5(1)(*b*). **Re H (infants) (adoption : parental consent)** [1977] **2** 339, CA.
Test of unreasonableness—Welfare of child—Reasonable parent taking welfare of child into account—Whether welfare of child parent's first consideration—Adoption Act 1958, s5(1)(*b*)—Children Act 1975, s 3. **Re P (an infant) (adoption : parental consent)** [1977] **1** 182, CA.
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Appeal from magistrates' court to Divisional Court of Family Division—Procedure—Adoption Act 1958, s 10—RSC Ord 90, rr 9(2), 16. **Practice Direction** [1977] **2** 543, FamD.
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Filing—
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Form—Fastening pages together by thick plastic strips—Clamping of exhibits to affidavit. **Gleeson v J Wippell & Co Ltd** [1977] **3** 54, ChD.

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Right of member of public to sue in own name—Claim for declaration or injunction—Enforcement of public rights—Effect of refusal of Attorney-General's consent to relator action—Right of member of public to bring action in own name—Plaintiff having no interest other than as member of public—Action to restrain postal workers' unions from instructing members to interfere with postal services in breach of criminal law—Attorney-General refusing consent to relator action—Whether member of public entitled to sue in own name for injunction or declaration against union. **Gouriet v Union of Post Office Workers** [1977] **3** 70, HL.
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Petition by secured creditor—Application to amend by stating that willing to surrender security for benefit of creditors generally—No evidence of value of security—Creditor deliberately omitting to disclose security in petition on legal advice—Delay in applying for amendment—Application to amend made only when debtor applied to have bankruptcy proceedings set aside—Whether discretion to amend petition should be exercised by allowing amendment—Whether absence of evidence as to value of security reason for refusing amendment—Whether deliberate omission to disclose security or delay in applying to amend reasons for refusing amendment—Bankruptcy Act 1914 s 109(3) **Re a debtor (No 39 of 1974), ex parte Okill v Gething** [1977] 3 489, ChD.
Creditor's petition—
Secured creditor—Judgment debt—Debt secured by charging order on debtor's property—Charging order not executed by appointment of receiver—Creditor on legal advice stating in petition that he did not hold any security on debtor's estate—Creditor not appointing receiver for purpose of executing charging order prior to service of petition on debtor—Receiving order and adjudication order made pursuant to petition—Application by debtor to set aside bankruptcy proceedings on ground that creditor was a secured creditor and was therefore required to state in petition the value of his security or that he was willing to surrender it—Whether creditor a secured creditor by virtue of charging order—Whether failure to appoint receiver making him an unsecured creditor for purposes of bankruptcy—Bankruptcy Act 1914 s 4(2) **Re a debtor (No 39 of 1974), ex parte Okill v Gething** [1977] 3 489.
Hearing—
Exclusion of public—Only petitioning creditor debtor and respective legal advisers to be present at hearing **Re a debtor (No 28 of 1976), ex parte the debtor v Carr** [1977] 1 193, ChD.
Substitution of petitioning creditor—
Notice to debtor—Notice to be given to debtor of application to be substituted as petitioning creditor **Re a debtor (No 28 of 1976), ex parte the debtor v Carr** [1977] 1 193, ChD.
Practice—
Title of proceedings—
Anonymity—Omission of debtor's name before receiving order made and advertised **Re a debtor (No 28 of 1976), ex parte the debtor v Carr** [1977] 1 193, ChD.

BANKRUPTCY (cont)
Property available for distribution—
Matrimonial home—
Sale under trust for sale—Interests of children as a relevant consideration—Husband and wife joint tenants of home—Husband declared bankrupt—Home held by husband and wife on trust for sale—Wife entitled to half share in equity—Husband having no other substantial assets to meet claims of creditors—Application by trustee in bankruptcy for order for sale—Wife and child of the marriage living in home—Child aged 16 studying for examinations—Discretion of court whether to order sale—Factors governing exercise of discretion—Whether interest of child an overriding factor. **Re Bailey (a bankrupt), ex parte the trustee of the bankrupt v Bailey** [1977] **2** 26, ChD.
Substitution of petitioning creditor. *See* Petition—Substitution of petitioning creditor, *ante*.
Trustee in bankruptcy—
Assignment of right of action to bankrupt—
Absolute assignment—Effect of covenant by assignee to pay assignor proportion of proceeds of action. *See* **Chose in action** (Assignment—Absolute assignment—Right of action—Effect of covenant by assignee to pay assignor proportion of proceeds of action—Bankruptcy).
Power to assign right of action to bankrupt—
Public policy—Trustee having power to sell right of action to any person—Any person including bankrupt—Trustee assigning his right of action in tort to bankrupt—Bankrupt covenanting to pay trustee percentage of net proceeds of action—Whether assignment contrary to public policy—Bankruptcy Act 1914, s 55(1). **Ramsey v Hartley** [1977] **2** 673, CA.
Power to sell property of bankrupt—
Sell—Transfer of thing in action—Assignment of cause of action—Assignment by deed—Whether 'sell' including transfer of thing in action by bankrupt—Whether necessary that assignment should be for valuable consideration—Bankruptcy Act 1914, s 55(1). **Ramsey v Hartley** [1977] **2** 673, CA.

BARRISTER
Books—
Expenditure on acquisition—
Capital allowance. *See* **Income tax** (Capital allowances—Plant—Books—Books purchased by barrister for purpose of carrying on his profession).
Generally. *See* **Counsel**.

BEACH
Seashore—
Boundary. *See* **Boundary** (Seashore—Beach).

BENEFIT
Disablement benefit—
Industrial injury. *See* **Industrial injury** (Disablement benefit).
National insurance—
Rates of benefit. *See* **National insurance** (Rates of benefit).
Supplementary benefit. *See* **Supplementary benefit**.

BILL OF EXCHANGE
Arbitration—
Clause in partnership agreement—
Applicability of clause to claim by partner under bill of exchange. *See* **Arbitration** (Arbitration clause—Partnership agreement—Applicability of arbitration clause to claim by partner under bill of exchange).
Discounting—
Income tax—
Computation of profits. *See* **Income tax** (Computation of profits—Discounting bills of exchange).

BIRTH
Expenses incidental to birth—
Affiliation order. *See* **Affiliation** (Affilation order—Expenses incidental to the birth of the child).

BOND
Performance bond—
Documentary credit—
Bond given by seller to buyer as security for fulfilment by seller of obligations under contract of sale. *See* **Bank** (Documentary credit—Confirmed credit—Performance bond given by seller to buyer as security for fulfilment by seller of obligations under contract of sale).

BOOK
Expenditure on acquisition of books—
Barrister—
Capital allowances. *See* **Income tax** (Capital allowances—Plant—Books—Books purchased by barrister for purpose of carrying on his profession).

BOUNDARY
Seashore—
Beach—
Area of beach—Area from low-water mark to high-water mark and area to landward of high-water mark in apparent continuity with beach at high-water mark—Extraction of sand—Agreement permitting extraction of sand from 'beach'. **Tito v Waddell (No 2)** [1977] **3** 129, ChD.

BREACH OF CONFIDENCE
See **Equity** (Breach of confidence).

BREACH OF CONTRACT
Damages—
Sale of land. *See* **Sale of land** (Damages for breach of contract).

BREACH OF INJUNCTION
Committal for contempt of court. *See* **Contempt of court** (Committal—Breach of injunction).

BREACH OF STATUTE
Injunction—
Alternative remedies not exhausted—
Power of court to grant relief. *See* **Injunction** (Alternative remedies—Alternative remedies not exhausted—Power of court to grant relief—Breach of statute).

BREACH OF THE PEACE
Criminal libel—
Leave to commence proceedings—
Discretion of judge—Factors to be considered by judge before exercising discretion—Likelihood of breach of the peace. *See* **Libel and slander** (Criminal libel—Leave to commence proceedings—Discretion of judge—Exercise of discretion—Factors to be considered by judge before exercising discretion—Whether necessary to consider likelihood of breach of peace).

BREATH TEST
Driving with blood-alcohol proportion above prescribed limit. *See* **Road traffic** (Breath test).

BUILDER
Negligence—
Owner of realty—
Duty to take care. *See* **Negligence** (Duty to take care—Owner of realty—Builder).

BUILDING
Damage—
Negligence—
Measure of damages. *See* **Damages** (Measure of damages—Negligence—Damage to building).
Damages—
Measure of damages for injury to building. *See* **Damages** (Land—Measure of damages for injury to land).
Local authority—
Duty to take care—
Act performed in exercise of statutory powers—Building operations. *See* **Negligence** (Duty to take care—Statutory powers—Act performed in exercise of powers—Local authority—Building operations).
Newly erected building—
Rates. *See* **Rates** (Unoccupied property—Newly erected building).
Rates—
Building occupied in parts. *See* **Rates** (Rateable occupation—Building occupied in parts).
Surcharge on unused commercial building. *See* **Rates** (Surcharge on unused commercial building).

BURDEN OF PROOF
Carriage of goods—
Loss or damage to goods—
Special risks inherent in nature of goods—Goods requiring protection from temperature or humidity—Carrier relieved from liability on proof than he has taken all steps incumbent on him in the circumstances. *See* **Carriers** (Loss or damage to goods—Special risks inherent in specified circumstances—Nature of goods—Goods requiring protection from temperature or humidity—Carrier relieved of liability on proof that he has taken all steps incumbent on him in the circumstances).
Equality of treatment between male and female employees—
Variation between woman's contract and man's contract due to material difference other than sex. *See* **Employment** (Equality of treatment between men and women—Variation between woman's contract and man's contract due to material difference other than se

BUSINESS
Capital gains tax—
Relief—
Disposal of business on retirement. *See* **Capital gains tax** (Exemptions and reliefs—Disposal of business on retirement)
Premises—
New tenancy—
Terms of new tenancy. *See* **Landlord and tenant** (Business premises—Terms of new tenancy).
Rates—
Surcharge on unused commercial building. *See* **Rates** (Surcharge on unused commercial building)
Rent—
Limitation—Counter-inflation legislation. *See* **Landlord and tenant** (Rent—Business premises—Limitation—Prohibition on increase in rate of rent—Counter-inflation legislation)
Tenancy. *See* **Landlord and tenant** (Business premises)

CANDIDATE
Local government election—
Nomination. *See* **Elections** (Local government—Nomination papers).

CANNABIS
Generally. *See* **Drugs** (Dangerous drugs—Cannabis).

CAPITAL
Annual payment—
Income tax—
Payments not out of profits etc already taxed—Attribution by taxpayer to capital. *See* **Income tax** (Annual payment—Payments not out of profits etc already taxed—Attribution by taxpayer to capital).
Duty—
Relief—
Reconstruction or amalgamation of companies. *See* **Stamp duty** (Relief—Reconstruction or amalgamation of companies).
Expenditure—
Income tax—
Computation of profits. *See* **Income tax** (Deduction in computing profits—Capital or revenue expenditure).
Maintenance—
Husband and wife—
Resources of party—Capital sum. *See* **Husband and wife** (Maintenance—Amount—Resources of party—Capital sum).
Tax avoidance—
Transfer of assets abroad—
Receipt by United Kingdom resident of capital sum payment whereof connected with transfer or associated operation. *See* **Income tax** (Avoidance—Transfer of assets abroad—Receipt by United Kingdom resident of capital sum payment whereof of connected with transfer or associated operation).

CAPITAL ALLOWANCES
See **Income tax** (Capital allowances).

CAPITAL GAINS TAX
Annual payment—
Exemption—
Disposal of right to annual payments due under personal covenant not secured on property. *See* Exemptions and reliefs—Disposal of right to annual payments due under personal covenant not secured on property, *post*.
Assessment—
Deduction from consideration on sale—
Expenditure wholly and exclusively incurred in enhancing value of assets—Expenditure wholly and exclusively incurred in establishing, preserving or defending title to asset—Expenditure incurred by tenant in discharging obligation under lease—Payment of rent—Arrears of rent owing to landlord—Arrears rendering tenant liable to forfeiture proceedings—Landlord consenting to assignment of lease on condition arrears paid off out of proceeds—Whether payment of arrears expenditure incurred for purpose of 'enhancing the value' of the lease—Whether payment of arrears expenditure incurred in 'establishing, preserving or defending [tenant's] title'—Whether payment of arrears an allowable deduction in computing chargeable gains arising from assignment—Finance Act 1965, Sch 6, para 4(1)(*b*). **Emmerson (Inspector of Taxes) v Computer Time International Ltd (in liquidation)** [1977] **2** 545, CA.
Business—
Disposal on retirement—
Relief from tax. *See* Exemptions and reliefs—Disposal of business on retirement, *post*.
Caravan—
Used as private residence—
Exemption from tax. *See* Exemptions and reliefs—Private residence—Dwelling-house—Caravan, *post*.
Computation of chargeable gains—
Asset held on 6th April 1965—
Land—Sale reflecting development value—Consideration for asset acquired on disposal exceeding what market value would be if before disposal it had become unlawful to carry out any development—Sale of land without planning permission—Consideration on sale reflecting likelihood of obtaining planning permission—Development without permission unlawful—Whether statutory hypothesis that development had 'become' unlawful capable of application where development without permission already unlawful—Finance Act 1965, Sch 6, para 23(1)(*b*). **Watkins v Kidson (Inspector of Taxes)** [1977] **3** 545, ChD.
Disposal of assets—
Assets—
Employer's rights under service agreement with employee—Payment to company by director to secure release from service agreement—Departure of director likely to diminish company's shareholding in subsidiaries—Likely dimunition in share values main factor in determining large amount exacted from director to secure release—Whether release of company's rights under service agreement a disposal of 'assets'—Whether assets from which payment derived shares in subsidiaries or rights under service agreement—Whether company assessable to corporation tax in respect of payment by director—Finance Act 1965, s 22(1)(3)(*c*). **O'Brien (Inspector of Taxes) v Benson's Hosiery (Holdings) Ltd** [1977] **3** 352, ChD.

CAPITAL GAINS TAX (cont)
Disposal of assets (cont)—
Capital sum derived from assets notwithstanding no asset acquired by person paying sum—
Capital sum received for surrender of rights—Surrender of lease—Statutory compensation paid to agricultural tenant for disturbance—Compensation paid on surrender of tenancy on notice to quit—Whether compensation capital sum 'derived from' lease—Whether compensation 'capital sum received in return for...surrender of rights'—Agricultural Holdings Act 1948, s 34(1)—Finance Act 1965, s 22(3)(*c*). **Davis (Inspector of Taxes) v Powell** [1977] **1** 471, ChD.
Divorce proceedings—
Financial provision—
Tax implications. *See* **Divorce** (Financial provision—Tax implications).
Exemptions and reliefs—
Disposal of business on retirement—
Disposal of part of business—Farming business—Mixed farming—Taxpayer selling small part of farm land after reaching retirement age—Taxpayer continuing to farm remaining land after sale—Whether sale of land disposal of 'part of...business'—Whether taxpayer entitled to retirement relief on gains arising from sale—Finance Act 1965, s 34(1)(*a*). **McGregor (Inspector of Taxes) v Adcock** [1977] **3** 65, ChD.
Disposal of right to annual payments due under personal covenant not secured on property—
Annual payment—Royalty or other sum paid in respect of the user of a patent—Taxpayer acquiring exclusive licence to use inventions comprised in letters patent held by licensor—Surrender of rights to licensor in respect of certain territories in return for 'royalty' of five per cent of net sales in those territories payable quarterly—Disposal of right to 'royalty' payments—Whether payments a 'royalty or other sum paid in respect of the user of a patent'—Whether payments excluded from expression 'annual payments'—Income Tax Act 1952, s 169(3)—Finance Act 1965, ss 52(3)(*a*), 53(5)(*b*), Sch 7, para 12(*c*). **Rank Xerox Ltd v Lane (Inspector of Taxes)** [1977] **3** 593, ChD.
Due under a covenant—Obligations to make payments created by undertaking embodied in document executed under seal—Obligations enforceable as contract debt apart from agreement under seal—Whether payments 'due under a covenant'—Finance Act 1965, Sch 7, para 12(*c*). **Rank Xerox Ltd v Lane (Inspector of Taxes)** [1977] **3** 593, ChD.
Disposal of shares in company on retirement—
Family company during the ten years ending with the disposal—During—Taxpayer holding 25 per cent of voting rights in company for part of the ten year period—Whether taxpayer required to hold 25 per cent of voting rights throughout the ten year period—Whether company his family company 'during' the ten year period—Finance Act 1965, s 34(1)(*b*)(6). **Davenport (Inspector of Taxes) v Hasslacher** [1977] **3** 396, ChD.
Private residence—
Dwelling-house—Caravan—Taxpayer living in caravan on plot of land owned by him—Caravan jacked up and resting on bricks—Caravan connected to electricity and water supply—Telephone installed—Sale of land and caravan—Whether caravan a 'dwelling-house'—Finance Act 1965, s 29(1)(*a*). **Makins v Elson (Inspector of Taxes)** [1977] **1** 572, ChD.
Land—
Computation of chargeable gain—
Land held on 6th April 1965. *See* Computation of chargeable gains—Asset held on 6th April 1965—Land, *ante*.
Retirement—
Disposal of business—
Relief from tax. *See* Exemptions and reliefs—Disposal of business on retirement, *ante*.

CAR
Insurance. *See* **Motor insurance**.

CARAVAN
Capital gains tax—
Exemption—
Caravan used as private dwelling-house. *See* **Capital gains tax** (Exemptions and reliefs—Private residence—Dwelling-house—Caravan).

CARE
Child—
Local authority. *See* **Child** (Care—Local authority)
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CARE AND CONTROL
Ward of court. *See* **Ward of court** (Care and control).

CARGO
Carriage by air—
Damage to cargo. *See* **Carriage by air** (Damage to baggage or cargo).
Freight. *See* **Shipping** (Freight).
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CARRIAGE BY AIR
Animals. *See* **Animal** (Carriage by sea, air, road or rail).

CARRIAGE BY AIR (cont)
Damage to baggage or cargo—
Complaint to carrier within prescribed period after discovery of damage—
Damage—Loss of articles from baggage—Whether loss of articles constituting 'damage'—Whether complaint to be made within prescribed period—Carriage by Air Act 1961, Sch 1, art 26(2). **Fothergill v Monarch Airlines Ltd** [1977] **3** 616, QBD

CARRIAGE BY SEA
Animals. *See* **Animal** (Carriage by sea, air, road or rail).

CARRIAGE OF GOODS
Carriage by road. *See* **Carriers** (Contract—Carriage of goods).
Loss or damage to goods. *See* **Carriers** (Loss or damage to goods).

CARRIERS
Animals—
Carriage by sea, air, road or rail. *See* **Animal** (Carriage by sea, air, road or rail).
Contract—
Carriage of goods—
Compensation for loss of goods—Charges incurred in respect of carriage of goods—Goods intended for export—Goods lost in England in consequence of carrier's negligence—Excise duty exacted from sellers because goods missing in England—Whether 'charges incurred in respect of the carriage' of goods limited to charges for the carriage itself or including charges incurred in consequence of way goods carried—Whether excise duty exacted from sellers in consequence of negligent carriage a charge 'incurred in respect of the carriage' of the goods—Carriage of Goods by Road Act 1965, Sch, art 23, para 4. **James Buchanan & Co Ltd v Babco Forwarding and Shipping (UK) Ltd** [1977] **3** 1048, HL.
Compensation for loss of goods—Value of goods at place and time at which accepted for carriage—Goods intended for export—Excise duty—Value of goods duty paid value or ex duty value—Whisky sold for export ex bonded warehouse—Whisky loaded on trailer at warehouse but stolen in England in transit to Europe—Sellers required to pay excise duty on whisky—Whether 'value of goods at place and time at which they were accepted for carriage' duty paid value or ex duty value—Carriage of Goods by Road Act 1965, Sch, art 23, paras 1,2. **James Buchanan & Co Ltd v Babco Forwarding and Shipping (UK) Ltd** [1977] **3** 1048, HL.
Loss or damage to goods—
Special risks inherent in specified circumstances—
Nature of goods—Goods requiring protection from temperature or humidity—Carrier relieved of liability on proof that he has taken all steps incumbent on him in the circumstances—Finding by judge that carrier had failed to take some step incumbent on him—Judge unable to identify step which carrier had failed to take—Whether carrier to be treated as having discharged burden of proof unless judge able to identify step which carrier had failed to take—Carriage of Goods by Road Act 1965, Sch, art 17, para 4 (*d*), art 18, para 4. **Ulster—Swift Ltd v Taunton Meat Haulage Ltd** [1977] **3** 641, CA.
Presumption that loss or damage attributable to one or more of special risks—Onus on claimant of displacing presumption—Whether sufficient to prove on balance of probabilities that loss or damage not in fact attributable either wholly or partly to one of those risks—Carriage of Goods by Road Act 1965, Sch, art 17, para 4, art 18, para 2. **Ulster—Swift Ltd v Taunton Meat Haulage Ltd** [1977] **3** 641, CA.

CASE STATED
Application to state a case—
Time limit for application—
Extension of time limit—Whether compliance with time limit mandatory—Whether compliance with time limit a condition precedent to the stating of a case—Whether court has jurisdiction to extend time limit—Magistrates' Courts Act 1952, s 87(2). **Michael v Gowland** [1977] **2** 328, FamD.
Form—
Case stated by commons commissioner—
Question for decision of court—Appellant wishing to raise issue as to insufficiency of evidence—Commons Registration Act 1965, s 18(1). **Re Britford Common** [1977] **1** 532, ChD.
Limitation of time—
Application to state a case. *See* Application to state a case—Time limit for application, *ante*.

CAUSE OF ACTION
Foreign—
Stay of proceedings. *See* **Practice** (Stay of proceedings—Foreign cause of action).
Revival of cause of action—
Acknowledgment of debt—
Limitation period. *See* **Limitation of action** (Acknowledgment—Debt).

CENTRAL BANK
Foreign central bank—
Immunity from suit. *See* **Constitutional law** (Foreign sovereign state—Immunity from suit—Central bank of foreign state).

CENTRAL FUNDS
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Award of costs out of central funds—
Criminal cases. *See* **Criminal law** (Costs—Award out of central funds).
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Taxation—Review of taxation—Costs in Crown Court. *See* **Costs** (Taxation—Review of taxation—Costs in Crown Court—Costs payable out of central funds).

CERTIFICATE
Firearms—
Generally. *See* **Firearms** (Certificate).
Trade union—
Certification as independent. *See* **Trade union** (Certification as independent trade union).

CERTIORARI
Jurisdiction—
National insurance commissioners—
When jurisdiction should be exercised—Interference of court in decision of commissioner—Interference should be limited to cases where a general principle is involved or where there is a difference of opinion among different commissioners. **R v National Insurance Comr, ex parte Michael** [1977] 2 420, CA.

CHAMBERS
Chancery Division—
Practice. *See* **Practice** (Chambers proceedings).
Divorce proceedings—
Hearing—
Chambers or open court. *See* **Divorce** (Practice—Hearing—Chambers or open court).
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Matter not argued before the court—
Jurisdiction to make declaration. *See* **Declaration** (Jurisdiction—Matter not argued before the court—Chancery Division).
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Adjournment. *See* **Practice** (Motion—Adjournment—Chancery Division).
Practice. *See* **Practice** (Chancery Division).
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Practice. *See* **Practice** (Summons for directions—Chancery Division).

CHANGE
Name—
Minor's surname. *See* **Minor** (Change of surname).

CHARGE
Joinder of charges—
Indictment. *See* **Indictment** (Joinder of charges).
Land charge. *See* **Land charge**
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CHARGEABLE GAINS
Computation—
Capital gains tax. *See* **Capital gains tax** (Computation of chargeable gains).

CHARGES
Distress for rates—
Charges for levying distress. *See* **Rates** (Distress for rates).

CHARGING ORDER
Judgment debt—
Bankruptcy petition by creditor—
Secured creditor. *See* **Bankruptcy** (Petition—Creditor's petition—Secured creditor—Judgment debt—Debt secured by charging order on debtor's property).

CHARTERPARTY
Arrived ship under port charterparty—
Commencement of lay days. *See* **Shipping** (Commencement of lay days—Arrived ship under port charterparty)
Off-hire clause—
Insurance claim for loss of freight under clause—
Exemption clause—Whether claim consequent on loss of time. *See* **Marine insurance** (Freight—Exemption clause—Claim consequent on loss of time)
Port charter—
Arrived ship—
Commencement of lay days. *See* **Shipping** (Commencement of lay days—Arrived ship under port charterparty)
Time charterparty. *See* **Shipping** (Time charterparty)

CHEAT
Going equipped to [illegible]. *See* Criminal law [illegible] equipped with articles for cheat).

CHILD
Adoption. *See* **Adoption**
Affiliation. *See* **Affiliation**

CHILD (cont)
Care—
Local authority—
Wardship proceedings—Application to make care order in respect of ward—Jurisdiction of court n to make order—Discharge of previous care order in favour of local authority by justices—Substitution of supervision order in favour of different local authority in whose area child required to reside with grandparents—Further application by first local authority to make child a ward of court and for court to commit care of child to them—First local authority having had care of child for several years and not satisfied that supervision order would adequately protect child—Whether court should exercise wardship jurisdiction—Whether considerations applicable in wardship proceedings different from those applicable by justices in care proceedings—Whether welfare of child primary consideration in care proceedings—Children and Young Persons Act 1969, ss 1(2), 21(2). **Re D (a minor) (justices' decision : review)** [1977] **3** 481, FamD.
Proceedings in juvenile court. *See* **Children and young persons** (Care—Proceedings in juvenile court).
Care proceedings in juvenile court—
Children and young persons. *See* **Children and young persons** (Care proceedings in juvenile court).
Change of surname. *See* **Minor** (Change of surname).
Custody—
Divorce proceedings. *See* **Divorce** (Custody).
Income tax relief. *See* **Income tax** (Child relief—Entitlement—Custody of child).
Death of mother—
Fatal accident—
Damages for loss of services as mother. *See* **Fatal accident** (Damages—Death of mother—Loss of services as mother).
Evidence—
Criminal proceedings. *See* **Criminal evidence** (Child).
Gross indecency with child. *See* **Criminal law** (Gross indecency—Child).
Incest—
Aiding and abetting—
Girl under age of 16. *See* **Criminal law** (Incest—Aiding and abetting—Victim—Girl under age of 16).
Income tax relief. *See* **Income tax** (Child relief).
Indecent assault—
Consent of child incapable of preventing act being indecent assault. *See* **Criminal law** (Indecent assault—Consent of child incapable of preventing act being indecent assault).
Unborn child—
Change of surname. *See* **Minor** (Change of surname—Unborn child).
Ward of court. *See* **Ward of court**
Welfare—
Adoption—
Dispensing with consent of parent or guardian. *See* **Adoption** (Dispensing with consent of parent or guardian—Consent unreasonably withheld—Test of unreasonableness—Welfare of child).
Custody as between parents. *See* **Minor** (Custody—Custody as between parents—Factors to be considered—Interest of minor paramount consideration).
Ward of court—
Care and control—Welfare of child first and paramount consideration. *See* **Ward of court** (Care and control—Factors to be considered—Welfare of minor first and paramount consideration).

CHILDREN AND YOUNG PERSONS
Care—
Proceedings in juvenile court—
Evidence—Admissibility—Admissions—Admissions by person not a party to proceedings—Admissions of ill—treatment by person having control of child—Statements by child's guardian made to police officer and to social workers—Whether statements admissible in evidence—Whether fact that guardian not a party to care proceedings rendering statements inadmissible as hearsay—Children and Young Persons Act 1969, s 1(2). **Humberside County Council v DPR (an infant)** [1977] **3** 964, QBD.
Care proceedings in juvenile court—
Care order—
Exercise of discretion in making order—Review by appellate court of exercise of discretion—Exercise of discretion erroneous in point of law—Misdirection by lower court—Care order where child not receiving full-time education because of parents' implacable objection to comprehensive schooling—Child from good home—Only alternatives open that child lived at home without attending school or lived in care of local authority and attended comprehensive school—Care order made by juvenile court—Crown Court revoking order on ground that there were preferable proposals to a care order to enforce school attendance—Crown Court erroneously considering there was evidence that child unhappy during short period he spent in local authority home—Proper exercise of discretion requiring that care order should be made—Children and Young Persons Act 1969, s 1(2). **Re D J M S (a minor)** [1977] **3** 582, CA.
Conditions to be satisfied before making order—
Child not receiving efficient full-time education and in need of care or control—Failure of parents to secure education of child—Parents objecting to comprehensive schooling—No other schools available and parents unable to afford private education—Child well cared for at home—Whether 'care' including proper education of child—Whether child to be treated as in need of 'care' if not receiving proper education—Children and Young Persons Act 1969, s 1(2). **Re D J M S (a minor)** [1977] **3** 582, CA.

CHOSE IN ACTION

Assignment—

Absolute assignment—

Right of action—Effect of covenant by assignee to pay assignor proportion of proceeds of action—Bankruptcy—Assignment of trustee in bankruptcy's right of action to bankrupt—Bankrupt covenanting to pay trustee percentage of net proceeds of action—Whether 'absolute assignment (not purporting to be way of charge only)'—Law of Property Act 1925, **s** 136(1). **Ramsey v Hartley** [1977] **2** 673, CA.

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Waste land of a manor—Lordship of manor and ownership of land in different persons—Whether land waste land 'of a manor'—Commons Registration Act 1965, s 22(1)(*b*). **Re Yateley Common, Hampshire** [1977] **1** 505, ChD.
Waste land of a manor—Lordship of manor and ownership of land in same person after short interval of severance—Effect of severance—Whether land waste land 'of a manor'—Commons Registration Act 1965, s 22(1)(*b*). **Chewton Common, Christchurch, Re** [1977] **3** 509, ChD.
Waste land of a manor—Waste land—Land used as aerodrome since 1942—Possibility of reverting to common land if use for aerodrome ceased—Whether 'waste land'—Commons Registration Act 1965, s 22(1)(*b*). **Re Yateley Common, Hampshire** [1977] **1** 505, ChD.
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Long Vacation—Applications to Companies Court in Long Vacation. *See* **Practice** (Companies Court—Applications in Long Vacation—Applications for schemes of arrangement or reconstruction, for reduction of share capital or in respect of capital redemption reserve funds or share premium accounts).
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Distress levied against company before commencement of winding-up—Discretion of court to stay proceedings—Relevance of rule that creditor not entitled to retain benefit of execution not completed at commencement of winding-up—Rule applicable to execution but not to distress by landlord—Whether court justified in staying distress proceedings in absence of special circumstances such as fraud or unfair dealing—Companies Act 1948, ss 226, 325(1). **Re Bellaglade Ltd** [1977] **1** 319, ChD.

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Personal injury directly attributable to crime of violence—Crime of violence—Criminal activity which in circumstances involves probability of injury or violence to another—Damage to property—Gas pipe on premises broken to allow escape of gas by person committing suicide—Police officer entering premises injured by explosion of accumulated gas—Whether offence of destroying or damaging property a 'crime of violence'—Whether offence of damaging property intending to endanger another or being reckless whether another endangered a 'crime of violence'—Criminal Damage Act 1971, s 1(1)(2)(*b*)—Compensation for Victims of Crimes of Violence Scheme 1964 (1969 Revision), para 5. **R v Criminal Injuries Compensation Board, ex parte Clowes** [1977] **3** 854, QBD.
Personal injury directly attributable to crime of violence—Directly attributable—Substantial rather than sole cause—Relationship between cause and injury such that reasonable person would fairly regard it as being a cause—Compensation for Victims of Crimes of Violence Scheme 1964 (1969 Revision), para 5. **R v Criminal Injuries Compensation Board, ex parte Clowes** [1977] **3** 854, QBD.
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Wardship or adoption proceedings—Publication of information relating to proceedings contempt—Defence—Publisher ignorant that proceedings pending or imminent—Whether proof necessary that publisher reckless as to existence of wardship proceedings—Whether ignorance of proceedings a defence—Administration of Justice Act 1960, s 12(1)(*a*)(4). **Re F (a minor) (publication of information)** [1977] **1** 114, CA.
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Attempt to obtain property by deception—Judge directing jury that if satisfied that facts alleged were proved accused was guilty of the attempt—Any reasonable jury concluding that facts proved established the attempt charged—Whether judge misdirected jury in not leaving them to decide whether facts proved amounted to the attempt—Whether misdirection vitiated trial. **Director of Public Prosecutions v Stonehouse** [1977] **2** 909, HL.
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Appraisement and sale of ship—
Currency of sale. *See* **Admiralty** (Appraisement and sale—Currency of sale).
Foreign currency—
Arbitration award. *See* **Arbitration** (Award—Foreign currency).
Judgment. *See* **Judgment** (Foreign currency).

CUSTODY
Child—
Adoption—
Parent having custody—Application for adoption by parent and step—parent of child. *See* **Adoption** (Application—Married couple—Parent and step—parent of child—Parent having custody of child).
Income tax relief. *See* **Income tax** (Child relief—Entitlement—Custody of child).
Divorce proceedings. *See* **Divorce** (Custody).
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CUSTOMS AND EXCISE
Dealing with goods chargeable to duty which has not been paid—
Duty paid by importer after assessment by customs officer—
Assessment substantially below market value—Importer knowing of but not inducing undervaluation—Whether importer liable to pay additional duty on goods—Whether importer 'dealing with any goods...which are chargeable with a duty which has not been paid'—Customs and Excise Act 1952, s 304(*a*). **Customs and Excise Commissioners v Tan** [1977] **1** 432, HL.
Duties—
Goods intended for export—
Value of goods—Carriage of goods by road—Compensation for loss of goods—Value of goods at place and time at which accepted for carriage—Excise duty. *See* **Carriers** (Contract—Carriage of goods—Compensation for loss of goods—Value of goods at place and time at which accepted for carriage—Goods intended for export—Excise duty).
Goods intended for export—
Excise duty exacted because goods missing in United Kingdom—
Carriers' liability to pay compensation for loss of goods—Value of goods at place and time at which accepted for carriage—Whether value including excise duty. *See* **Carriers** (Contract—Carriage of goods—Compensation for loss of goods—Charges incurred in respect of the carriage of the goods—Goods intended for export—Goods lost in England due to carriers' negligence—Excise duty exacted from sellers because goods missing in England).
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Interrogation of suspect by customs officers—
Admissions and confessions—Admissiblity in evidence—Judges' Rules—Refusal to allow suspect to consult solicitor. *See* **Criminal evidence** (Admissions and confessions—Answers and statements to police—Right to consult solicitor—Refusal to allow suspect to consult solicitor—Interrogation by customs officers).
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Uncustomed goods—
Enforcement of policy contrary to public policy. *See* **Insurance** (Illegality—Enforcement of policy contrary to public policy—Uncustomed goods).

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Cargo. *See* **Shipping** (Cargo—Loss or damage).
Criminal. *See* **Criminal law** (Damage to property).
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Liability for damage caused by animal. *See* **Animal** (Dangerous animal—Liability for damage).
Negligence—
Limitation of action—
Accrual of cause of action. *See* **Limitation of action** (When time begins to run—Actions of tort—Accrual of cause of action—Negligence—Damage).

DAMAGES
Breach of contract—
Foreign currency—
Arbitration award. *See* **Arbitration** (Award—Foreign currency—Damages—Breach of contract).
Generally. *See* **Contract** (Damages for breach).
Sale of land. *See* **Sale of land** (Damages for breach of contract).
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Loss or damage to goods. *See* **Carriers** (Loss or damage to goods).
Fatal accident. *See* **Fatal accident** (Damages).

DAMAGES (cont)
Foreign currency—
Arbitration award. *See* **Arbitration** (Award—Foreign currency—Damages).
Breach of contract—
Jurisdiction to order payment of sum expressed in foreign currency. *See* **Judgment** Foreign currency—Jurisdiction to order payment of sum expressed in foreign currency—Damages for breach of contract).
Jurisdiction to order payment of sum expressed in foreign currency—
Damages in tort. *See* **Judgment** (Foreign currency—Jurisdiction to order payment of sum expressed in foreign currency—Damages for tort).
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Recovery of money won on a wager—
Action for damages for breach of contract of service. *See* **Gaming** (Debt—Recovery of money won on a wager—Damages for breach of contract of service).
Interest. *See* **Interest** (Damages).
Land—
Measure of damages for injury to land—
Breach of contract. *See* **Contract** (Damages for breach—Injury to land).
Cost of reinstatement of diminution in market value—Plaintiff in possession having full ownership—Requirement that damages should be reasonable as between plaintiff and defendant—Cost of restoring premises to former condition greatly exceeding diminution in market value—Disused billiard hall destroyed by fire—Fire caused by defendant's negligence—Billiard hall having no prospect of being used or occupied in its existing condition—Property having development potential and retained by plaintiffs as investment—Whether plaintiffs entitled to claim damages representing cost of reinstatement or limited to damages representing diminution in market value. **C R Taylor (Wholesale) Ltd v Hepworths Ltd** [1977] **2** 784, QBD.
Measure of damages—
Negligence—
Damage to building—Damage resulting from hidden defects—Inadequate foundations—Failure to comply with building byelaws—Purpose of byelaws to prevent danger to health and safety of occupants—Recoverable damages including amount of expenditure necessary to restore building to condition in which it is no longer a danger to health and safety of occupants. **Anns v London Borough of Merton** [1977] **2** 492, HL.
Personal injury—
Loss of amenities of life—
Interest on sum awarded for loss of amenities. *See* **Interest** (Damages—Personal injury—Pain, suffering and loss of amenities).
Loss of earning capacity—
Circumstances in which award will be made where plaintiff in employment at date of trial—Risk of loss of employment before estimated end of working life—Need to establish that risk real or substantial. **Moeliker v A Reyrolle and Co Ltd** [1977] **1** 9, CA.
Principles governing assessment of damages—Plaintiff in employment at date of trial—Assessment and quantification of risk of loss of employment and effect of injury on chances of obtaining further employment in that event. **Moeliker v A Reyrolle and Co Ltd** [1977] **1** 9, CA.
Loss of enjoyment of holiday—
Car accident occurring on holiday—Loss of enjoyment of holiday reasonably foreseeable—Loss recoverable as part of general damages and not as separate head of damage reasonably foreseeable. **Ichard v Frangoulis** [1977] **2** 461, QBD.
Pain and suffering—
Interest on sum awarded for pain and suffering. *See* **Interest** (Damages—Personal injury—Pain, suffering and loss of amenities).
Sale of land—
Breach of contract. *See* **Sale of land** (Damages for breach of contract).
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DANGEROUS ANIMAL
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Factory. *See* **Factory** (Dangerous parts of machinery).

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DEATH DUTY
Estate duty. *See* **Estate duty**.

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Procedure. *See* **Industrial tribunal** (Procedure—Decision).

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Divorce proceedings—
Declaration that party unfit to have custody of child. *See* **Divorce** (Custody—Declaration that party to marriage unfit to have custody of child).
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Matter not argued before court—
Chancery Division—Issue raised in pleadings admitted by both parties—Whether court should grant declaration on issue admitted by defendant and not argued out before court. **Metzger v Department of Health and Social Security** [1977] **3** 444, ChD.
Public right—
Refusal of Attorney-General of consent to relator action—
Right of member of public to sue in own name. *See* **Attorney-General** (Relator action—Refusal of consent to relator action—Right of member of public to sue in own name—Claim for declaration or injunction).
Tax advantage—
Counteracting—
Appeal against notice—Statutory grounds of appeal—Taxpayer wishing to question notice on other grounds—Claim for declaratory relief. *See* **Income tax** (Tax advantage—Counteracting—Appeal against notice—Statutory grounds of appeal—Taxpayer wishing to question notice on other grounds—Claim for declaratory relief).
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Express trust. *See* **Trust and trustee** (Creation of trust—Express trust—Declaration of trust).

DECREE ABSOLUTE
Divorce. *See* **Divorce** (Decree absolute).

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Deduction from consideration on sale. *See* **Capital gains tax** (Assessment—Deductions from consideration on sale).
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Fatal accident. *See* **Fatal accident** (Damages—Deduction from damages).
Income tax—
Deduction in computing profits. *See* **Income tax** (Deduction in computing profits).

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Minor—
Change of surname. *See* **Minor** (Change of surname—Deed poll).

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Generally. *See* **Libel and slander**.

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Claim for freight. *See* **Shipping** (Freight—Claim for freight—Defence).

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Interlocutory injunction. *See* **Injunction** (Interlocutory—Danger that defendant may transfer assets out of jurisdiction).

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Construction—
Definition in earlier statute—Construction by reference to definition in earlier statute. *See* **Statute** (Construction—Construction by reference to other statute—Definition in earlier Act).

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Dismissal of action for. *See* **Practice** (Dismissal of action for want of prosecution—Delay).

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DEPORTATION
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DEVELOPMENT
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Sale of land reflecting development value—Land held on 6th April 1965—Computation of chargeable gain. *See* **Capital gains tax** (Computation of chargeable gains—Asset held on 6th April 1965—Land—Sale reflecting development value).

DEVELOPMENT (cont)
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Criminal trial. *See* **Criminal law** (Trial—Direction to jury).

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Generally. *See* **Company** (Director).

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Criminal proceedings. *See* **Sentence** (Conditional discharge).
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Generally. *See* **Jury** (Juror—Discharge during trial).

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Company director—
Compensation for loss of office. *See* **Company** (Director—Compensation for loss of office—Disclosure to and approved by company).
Confidential information—
Breach of confidence—
Public interest in disclosure. *See* **Equity** (Breach of confidence—Defence—Public interest in disclosure).
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Public interest. *See* **Discovery** (Production of documents—Confidence—Implied undertaking—Public interest in disclosure of information).

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Complaint of maladministration—Production of documents. *See* **Local government** (Maladministration—Complaint to local commissioner—Production of documents or information).
Privilege—
Production contrary to public interest—
Persons entitled to resist discovery on ground of public interest—Bodies other than central departments of government—Society incorporated by royal charter for protection of children—Society having limited statutory power—Confidential information—Information solicited from members of the public under promise of confidentiality—Society authorised by Secretary of State to bring care proceedings in juvenile courts—Society not under any duty to bring proceedings—Proceedings against society—Documents relating to identity of informant—Whether privileged from discovery on ground of public interest—Whether privilege on ground of public interest confined to departments of central government. **D v National Society for the Prevention of Cruelty to Children** [1977] **1** 589, HL.
Self—incrimination. *See* **Evidence** (Privilege—Incrimination of witness or spouse).
Production of documents—
Confidence—
Implied undertaking—Public interest in disclosure of information—Implied undertaking by party obtaining discovery not to use documents for ulterior purpose—Document disclosed to plaintiff in one action—Plaintiff subsequently bringing action based on document disclosed in first action—Whether use of document in second action abuse of process of court—Whether use of document should be restrained. **Riddick v Thames Board Mills Ltd** [1977] **3** 677, CA.
Foreign tribunal—
Examination of witness in relation to matters pending before foreign tribunal. *See* **Evidence** (Foreign tribunal—Examination of witness in relation to matters pending before foreign tribunal—Production of documents).
Privilege—
Generally. *See* Privilege, *ante*.
Self—incrimination. *See* **Evidence** (Privilege—Incrimination of witness or spouse).

DISCRETION
Costs—
County court. *See* **County court** (Costs—Discretion).
Order for costs. *See* **Costs** (Order for costs—Discretion).
Court—
Statutory provision affecting exercise of discretion—
Statutory provision not yet brought into force. *See* **Statute** (Commencement—Act coming into force on date subsequent to its enactment—Discretionary power of court—Statutory provision affecting exercise of discretion).
Criminal libel—
Leave to commence proceedings. *See* **Libel and slander** (Criminal libel—Leave to commence proceedings—Discretion of judge).

DISCRETION (cont)
Dismissal of action for want of prosecution. *See* **Practice** (Dismissal of action for want of prosecution).
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Withdrawal of payment in. *See* **Practice** (Payment into court—Withdrawal of payment in—Discretion of court to allow withdrawal).
Subpoena ad testificandum—
Discretion to refuse issue. *See* **Practice** (Subpoena ad testificandum—Issue—Discretion to refuse issue).
Witness—
Criminal proceedings—
Prosecution witnesses—Witnesses whose statements are tendered in committal proceedings—Discretion of Crown not to call witnesses. *See* **Criminal law** (Trial—Prosecution—Witnesses—Witnesses whose statements are tendered in committal proceedings—Discretion of Crown not to call witnesses).

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Employment—
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Equality of treatment. *See* **Employment** (Equality of treatment for men and women).

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Practice. *See* **Practice** (Dismissal of action for want of prosecution).
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Constructive dismissal—
Unfair dismissal. *See* **Unfair dismissal** (Constructive dismissal).
Trade union official—
Natural justice. *See* **Natural justice** (Trade union—Dismissal of union official from office).
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Gaming—
Licensing of premises—Notice advertising making of application for licence—Display of notice. *See* **Gaming** (Licensing of premises—Application for licence—Notice advertising making of application—Display of notice).

DISPOSAL OF ASSETS
Capital gains tax. *See* **Capital gains tax** (Disposal of assets).

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Winding-up—
Stay or restraint of distress proceedings—Distress levied by landlord against company before commencement of winding-up. *See* **Company** (Winding-up—Stay or restraint of proceedings against company—Distress levied by landlord against company before commencement of winding-up).
Rates. *See* **Rates** (Distress for rates).

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Libel—
Innocent dissemination—Absence of prior knowledge of libel. *See* **Libel and slander** (Publication—Innocent dissemination of libel—Absence of prior knowledge of libel—Distributor of magazines).

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Funds in court—
Holding by Public Trustee out of court—
Minors' funds—Direction by court—Powers extended to district registrars. *See* **Practice** (Funds in court—Funds exceeding £7,500—Holding by Public Trustee out of court—Direction by court—Minors' funds—Powers of court extended to district registrars).

DIVISIONAL COURT
Discharge of fugitive offender—
Appeal—
Decision of Divisional Court that unjust or oppressive to return fugitive. *See* **Extradition** (Discharge of fugitive—Appeal—Decision of Divisional Court that unjust or oppressive to return fugitive).

DIVORCE
Chambers—
Hearing in chambers or open court. *See* Practice—Hearing—Chambers or open court, *post*.
Costs—
Interest on costs—
County court proceedings—Proceedings taking place partly in county court and partly in High Court—All costs taxed together—Whether interest payable on costs incurred in county court—Judgments Act 1838, s 17. **K v K (divorce costs : interest)** [1977] **1** 576, CA.
Date from which interest payable—Order that husband pay wife her taxed costs—Whether interest payable from date of order for costs or from date of taxation certificate—Judgments Act 1838, ss 17, 18. **K v K (divorce costs : interest)** [1977] **1** 576, CA.

DIVORCE (cont)
Custody—
Access—
Application to registrar. *See* Custody—Application—Applications which may be made to registrar, *post*.
Application—
Applications which may be made to registrar—Access—Issue as to extent of access—Application for order relating to custody or education of child where terms agreed between parties—Application for access where other party consents to access and only issue is extent of the access—Such applications to be made in first instance to registrar unless exceptional circumstances make it desirable to apply to a judge—Matrimonial Causes Rules 1977 (SI 1977 No 344), r 92(2). **Practice Direction** [1977] **3** 944, FamD.
Declaration that party to marriage unfit to have custody of child—
Time when declaration to be made—Declaration required to be made before decree absolute pronounced—Matrimonial Causes Act 1973, s 42(3). **Buckley v Buckley** [1977] **3** 544, FamD.
Decree absolute—
Declaration that party to marriage unfit to have custody of child—
Declaration before decree made absolute. *See* Custody—Declaration that party to marriage unfit to have custody of child—Time when declaration to be made, *ante*.
Expediting—
Special order reducing period fixed by general order—Applications in undefended special procedure cases—Applications in other cases. **Practice Direction** [1977] **2** 714, FamD.
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Chambers or open court. *See* Practice—Hearing—Chambers or open court—Applications for decree absolute lodged more than 12 months after decree nisi or contested interventions by Queen's Proctor or other persons to be heard in open court, *post*.
Decree nisi—
Cohabitation after decree nisi—
Bar to decree based on adultery. *See* Irretrievable breakdown of marriage—Adultery—Cohabitation after adultery becoming known to petitioner a bar to decree—Cohabitation after decree nisi, *post*.
Refusal—
Grave financial or other hardship. *See* Separation—Five years separation—Decree nisi—Refusal—Grave financial or other hardship, *post*.
Financial hardship—
Refusal to grant decree. *See* Separation—Five year separation—Decree nisi—Refusal—Grave financial or other hardship, *post*.
Financial provision—
Agreement between parties. *See* **Husband and wife** (Maintenance—Agreement).
Application—
Remarriage of party—Party not entitled to apply for order after remarriage—Application to vary agreement made before decree nisi—Wife's remarriage dissolved—Whether wife entitled to apply for amendment of agreement to make provision for lump sum—Matrimonial Causes Act 1973, s 35(1)(2). **Pace (formerly Doe) v Doe** [1977] **1** 176, FamD.
Subpoena ad testificandum—Discretion to refuse issue—Oppression. *See* **Practice** (Subpoena ad testificandum—Issue—Discretion to refuse issue—Oppression—Application for financial provision in divorce proceedings).
Child—
Maintenance—Generally. *See* **Minor** (Maintenance).
Conduct of parties—
Duty of court to have regard to conduct—Circumstances in which regard to be had to conduct—Allegations as to conduct made after lapse of many years—Investigations of allegations lengthy and costly—Whether court justified in refusing to have regard to conduct—Matrimonial Causes Act 1973, s 25. **Campbell v Campbell** [1977] **1** 1, FamD.
Duty of court to have regard to conduct—Circumstances in which regard should be had to conduct—Conduct obvious and gross—Gross conduct—Gross conduct not meaning gross in moral sense but merely that conduct of great importance in relation to marriage—Wife from outset of marriage unreasonably refusing to cohabit with husband in house purchased by him as matrimonial home—Wife and children living with wife's parents—Wife's refusal to cohabit due to personality defect—Whether wife's conduct obvious and gross—Whether conduct justified reduction in her financial provision. **West v West** [1977] **2** 705, CA.
Duty of court to have regard to conduct—Conduct affecting duration of marriage—Contribution made by party to looking after home—Wife from outset of marriage unreasonably refusing to cohabit with husband in home purchased by him as matrimonial home—Refusal to cohabit due to wife's personality defect—Wife and children living at wife's parents' home—Wife's conduct affecting duration of marriage—Wife not contributing to home purchased by husband—Whether wife's conduct justified reduction in her financial provision—Matrimonial Causes Act 1973, s 25(1)(*d*),(*f*). **West v West** [1977] **2** 705, CA.
Evidence—
Effect of order sought—Tax—Calculations showing real position of each party after tax—Duty of counsel to work out effect of his proposals. **S v S** [1977] **1** 56, CA.
Fraudulent conveyance—
Conveyance with intent to avoid potential debt—Extinguishment of claim in ancillary proceedings by death before debt established. *See* **Fraudulent conveyance** (Conveyance of property with intent to defraud creditors—Potential creditor—Person having claim against grantor liable to give rise to future debt—Extinguishment of claim by death of grantor before debt established—Husband and wife—Matrimonial proceedings).

DIVORCE (cont)
Financial provision (cont)—
Maintenance agreement for the time being subsisting—
Application to vary agreement—Agreement whereby husband to make periodical payments to wife and repay mortgage—Wife remarrying and periodical payments ceasing—Husband continuing to make mortgage payments—Wife's remarriage dissolved—Wife applying to vary agreement to make financial provision for her—Husband repaying mortgage loan—Whether agreement 'subsisting'—Whether court having jurisdiction to vary agreement—Matrimonial Causes Act 1973, s 35(1). **Pace (formerly Doe) v Doe** [1977] **1** 176, FamD.
Matters to be considered by court when making order—
Duration of marriage—Premarital cohabitation—Parties living together for three and a half years before marrying—Marriage lasting two years—Whether consideration to be given to total period of cohabitation—Whether marriage a 'short marriage'—Matrimonial Causes Act 1973, s 25. **Campbell v Campbell** [1977] **1** 1, FamD.
Duty to place parties in financial position in which they would have been in absence of breakdown—Allocation of family assets—Matrimonial home only asset—Equity in matrimonial home owned by parties jointly—No children—Husband living with party cited in secure accommodation—Wife living in matrimonial home but applying for council accommodation—Both parties employed—Whether immediate sale of matrimonial home should be ordered—Whether reliance on rehousing of wife in council accommodation against public policy—Matrimonial Causes Act 1973, s 25(1)(*a*)(*b*). **Martin v Martin** [1977] **3** 762, CA.
Financial needs, obligations and responsibilities of parties—Wife's primary need a house—Settlement on wife until death or earlier remarriage—Parties marrying when both aged over 50—Wife selling house on marriage and giving proceeds to dependant—Parties living in husband's home—Marriage breaking down after two years—Husband remaining in home—Means of providing home for wife—Settlement of lump sum on wife until death or remarriage to enable her to buy home. **S v S** [1977] **1** 56, CA.
Periodical payments—
Assessment of joint income of husband and wife—Application of one-third rule—Gross income of wife to be added to husband's gross income in assessing joint income—Contributions to household expenses of adult children living with husband—Contributions not to be treated as part of husband's gross income—Contributions a factor in considering whether wife entitled to more than one- third of parties' joint gross income—Additional earnings of husband—Payment in goods for part-time work—Whether estimate of value of goods to be grossed up in assessing husband's gross income—Matrimonial Causes Act 1973, s 23(1). **Rodewald v Rodewald** [1977] **2** 609, CA.
Calculation—Amount payable to wife—Expenses to be deducted from husband's income—Application of 'one-third' rule—Husband having remarried—New wife working—Whether new wife's earnings, gross or net, to be included in husband's income—Whether account to be taken of new wife's contribution towards her keep. **Campbell v Campbell** [1977] **1** 1, FamD.
Calculation—Short marriage—Whether appropriate to vary one-third rule and award smaller fraction of parties' total income. **S v S** [1977] **1** 56, CA.
Property adjustment order. *See* Property—Adjustment order, *post*.
Subpoena ad testificandum—
Discretion to refuse issue—Oppression. *See* **Practice** (Subpoena ad testificandum—Issue—Discretion to refuse issue—Oppression—Application for financial provision in divorce proceedings).
Tax implications—
Need for court to know in advance position of each party after tax paid—Duty of parties to work out tax position on various assumptions to be canvassed in the court. **Lewis v Lewis** [1977] **3** 992, CA.
Variation of order—
Magistrates—Order registered in magistrates' court. *See* **Husband and wife** (Variation or discharge of maintenance order—Variation of order registered in magistrates' court).
Matters to be considered—Change in means of parties since original order made—Means of parties at date of application for variation heard—Whether court confined to looking at changes in means of parties since original order made—Whether court entitled to approach matter as if fixing payments de novo—Matrimonial Causes Act 1973, s 31. **Lewis v Lewis** [1977] **3** 992, CA.
Five year separation. *See* Separation—Five year separation, *post*.
Foreign decree—
Recognition by English court—
Refusal of recognition—Recognition manifestly contrary to public policy—Foreign decree obtained by husband by deception—Wife ignorant of proceedings—Decree stating that wife the petitioner—Other false facts stated in decree—Proceedings brought under power of attorney purporting to be signed by wife—Wife in England waiting for husband to join her—Wife not contemplating divorce—Whether court should refuse to recognise decree on ground recognition would 'manifestly be contrary to public policy'—Recognition of Divorces and Legal Separations Act 1971, s 8(2)(*b*). **Kendall v Kendall** [1977] **3** 471, FamD.
Grave financial or other hardship—
Refusal to grant decree. *See* Separation—Five year separation—Decree nisi—Refusal—Grave financial or other hardship, *post*.
Infant—
Surname—
Change of surname. *See* **Minor** (Change of surname—Divorce of parents).
Injunction—
Breach of injunction—
Committal for contempt of court. *See* **Contempt of court** (Committal—Breach of injunction—Divorce).

DIVORCE (cont)
Injunction (cont)—
Ex parte injunction. *See* **Injunction** (Ex parte injunction—Matrimonial proceedings).
Irretrievable breakdown of marriage—
Adultery—
Cohabitation after adultery becoming known to petitioner a bar to decree—Cohabitation after decree nisi—Wife granted decree nisi on basis of husband's adultery—Parties resuming cohabitation after decree nisi—Application by wife for order making decree absolute—Whether cohabitation precluding wife from applying for order—Matrimonial Causes Act 1973, ss 1(5), 2(1). **Biggs v Biggs and Wheatley** [1977] **1** 20, FamD.
Evidence that marriage has broken down irretrievably—
Events after grant of decree nisi—Cohabitation—Parties resuming cohabitation after decree nisi—Wife applying for order making decree absolute—Whether open to court to rescind decree nisi on ground marriage has not broken down irretrievably—Matrimonial Causes Act 1973, s 1(2)(*a*). **Biggs v Biggs and Wheatley** [1977] **1** 20, FamD.
Judicial separation—
Form of petition. *See* **Husband and wife** (Judicial separation—Form of petition).
Undefended cause. *See* **Husband and wife** (Judicial separation—Undefended cause).
Legal aid—
Unassisted person's costs out of legal aid fund—
Circumstances in which order may be made—Liability of assisted person to pay costs. *See* **Legal aid** (Unassisted person's costs out of legal aid fund—Circumstances in which order may be made—Liability of assisted party to pay costs—Divorce).
Maintenance—
Agreement. *See* **Husband and wife** (Maintenance—Agreement).
Variation of agreement—
Maintenance agreement for the time being subsisting. *See* Financial provision—Maintenance agreement for the time being subsisting—Application to vary agreement, *ante*.
Matrimonial home—
Sale under trust for sale. *See* **Husband and wife** (Matrimonial home—Sale under trust for sale—Divorce).
Petition—
Answer. *See* Practice—Answer, *post*.
Undefended causes—
Practice. *See* Practice—Undefended causes—Petition, *post*.
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Appeal—
Decision of Divisional Court that unjust or oppressive to return fugitive—Nature of decision—Test to be applied by House of Lords on reviewing decision—Decision one of fact as to proper inference to be drawn from primary evidence before court—Evidence before court on affidavit—House at liberty to draw own inference in reviewing decision—Divisional Court concluding that complex issues of fact involved in trial and that by reason of passage of time investigation of issues difficult and fair trial would not be obtained—Whether House of Lords entitled to draw own inference from primary facts and reverse decision—Fugitive Offenders Act 1967, s 8(3). **Union of India v Manohar Lal Narang** [1977] **2** 348, QBD & HL.
Circumstances rendering it unjust or oppressive to return fugitive—
Burden of proof on applicant—Whether discharge should be ordered only in exceptional or rare cases. **Union of India v Manohar Lal Narang** [1977] **2** 348, QBD & HL.
Circumstances court may have regard to—Specified grounds on which court may order release—Passage of time since commission of alleged offence—Circumstances not related to passage of time—Detention orders, unrelated to offence, made against fugitive—No appeal against detention orders—Application for discharge by fugitive based on ground of passage of time—Whether existence of detention orders circumstance to which court could have regard in determining whether circumstances rendered it unjust or oppressive to return fugitive—Fugitive Offenders Act 1967, s 8(3)(*b*). **Union of India v Manohar Lal Narang** [1977] **2** 348, QBD & HL.
Fugitive offender—
Discharge of offender. *See* Discharge of offender, *ante*.

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Breach of duty to fence—
Cause of injury—Contact between plaintiff and dangerous part—Indirect contact—Plaintiff working material covering dangerous part—Unfenced rotating drum covered with rubberised material being processed by machine—Material not itself capable of causing injury—Plaintiff's hand jerked and coming into contact with rubberised covering while wheel rotating at speed—No direct contact with rotating drum—Whether injury to plaintiff caused by rotating drum—Whether injury caused by defendants' breach of duty—Factories Act 1961, s 14(1). **Wearing v Pirelli Ltd** [1977] **1** 339, HL.

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FAMILY DIVISION
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Acting for petitioner in matrimonial proceedings. *See* **Practice** (Family Division—Solicitor acting in matrimonial proceedings for petitioner)

FAMILY PROVISION
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FAMILY PROVISION (cont)
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FARE
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FARMING
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Disposal of business on retirement—
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Loss of services as mother—Services of mother of which account should be taken—Services of mother other than conventional services of housekeeping to be taken into account in assessing pecuniary value of loss to dependant children. **Mehmet v Perry** [1977] **2** 529, QBD.
Death of wife—
Loss of housekeeping services—Cost of providing services of housekeeper—Husband giving up employment to look after family—Loss of wages—Five children—Two youngest children suffering from rare blood disorder and needing special care and attention—Husband on advice of children's doctor giving up employment to look after home and children full time—Whether loss to be calculated by reference to wages husband would otherwise have been able to earn—Whether husband also entitled to damages for his personal loss of wife's services. **Mehmet v Perry** [1977] **2** 529, QBD.
Deduction from damages—
Earning capacity of widow—Dependence on husband's assistance—Joint enterprise—Wife only able to carry out work with husband's assistance—Wife working as cleaner at date of husband's death—Wife's earnings going into family pool—Wife unable to do job as cleaner without husband's assistance—Whether wife's earning capacity to be disregarded. **Cookson v Knowles** [1977] **2** 820, CA.
Supplementary benefit—Husband giving up employment to look after children after wife's death—Husband receiving supplementary benefit following termination of employment—Damages for loss of wife's house-keeping services assessed by reference to husband's loss of wages—Whether supplementary benefit collateral payment not flowing from wife's death—Whether supplementary benefit to be deducted from damages assessed by reference to loss of wages. **Mehmet v Perry** [1977] **2** 529, QBD.
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Calculation—Division of award into two parts—Pre-trial loss and post-trial loss to be calculated arithmetically—Post-trial loss based on deceased's estimated earnings at date of trial and appropriate multiplier. **Cookson v Knowles** [1977] **2** 820, CA.

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Landlord and tenant—
Estoppel. *See* **Estoppel** (Landlord and tenant—Fire insurance).

FIREARMS
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Antique firearm—Antique—Firearms less than 100 years old and capable of being used or rendered fit for use—Firearms kept by collector as curiosity or ornament—No intention of using firearms—Whether open to justices to find that firearms 'antique'—Firearms Act 1968, s 58(2). **Richards v Curwen** [1977] **3** 426, QBD.

FIREARMS (cont)
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Person having firearm with him with intent to commit indictable offence—
Having with him—
Having firearm distinguished from possession—Need to establish accused had close physical link and immediate control over firearm—Not sufficient to establish that accused had possession of firearm—Not necessary to establish that accused had been carrying firearm—Question of fact and degree for jury whether accused had firearm with him—Firearms Act 1968, s 18(1). **R v Kelt** [1977] **3** 1099, CA.
Possession—
Possession of firearms without a certificate—
Mistaken belief as to nature of firearm—Antique firearm—Modern reproduction of antique firearm—Accused believing firearm to be antique and therefore exempt from requirement to have certificate—Whether accused in possession of firearm requiring a certificate—Firearms Act 1968, ss 1, 58(2). **R v Howells** [1977] **3** 417, CA.

FIVE YEAR SEPARATION
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FIXED TERM CONTRACT
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FOREIGN STATE
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Generally. *See* **Landlord and tenant** (Forfeiture of lease).

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FRAUD
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FRAUDULENT CONVEYANCE
Conveyance of property with intent to defraud creditors—
Potential creditor—
Person having claim against grantor liable to give rise to future debt—Extinguishment of claim by death of grantor before debt established—Husband and wife—Matrimonial proceedings—Claim by wife for financial provision—Voluntary conveyance of property by husband to son prior to divorce—Husband dying intestate before decree absolute—Wife's application for financial relief abating on death of husband—Whether wife entitled to have conveyance set aside on ground that it was intended to defraud creditors—Law of Property Act 1925, s 172(1). **Cadogan v Cadogan** [1977] **3** 831, CA.
Setting aside conveyance on application of person prejudiced—
Prejudice other than that intended—
Divorce proceedings—Claim by wife for financial provision—Voluntary conveyance of property by husband to son prior to divorce—Husband dying intestate before decree absolute—Wife's application for financial relief abating on death of husband—Wife, as result of conveyance, deprived of statutory right on husband's death to apply to court for reasonable provision for maintenance—Whether wife entitled to have conveyance set aside so far as necessary to give her relief against that damage. **Cadogan v Cadogan** [1977] **3** 831, CA.

FREIGHT
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Shipping. *See* **Shipping** (Freight).

FUGITIVE OFFENDER
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FUNDS IN COURT
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GAMING
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Recovery of money won on a wager—
Damages for breach of contract of service—Manager of licensed betting shop accepting credit bets without authority of employers—Customer placing credit bets and defaulting in payment of losses—Employers bringing action against manager for breach of contract of service—Damages claimed equalling amount of unpaid betting losses—Whether action for breach of contract effectively action to enforce payment of a wager—Whether damages recoverable—Gaming Act 1845, s 18. **A R Dennis & Co Ltd v Campbell** [1977] **1** 138, QBD.
Licensing of premises—
Application for licence—
Notice advertising making of application—Display of notice—Requirement that notice be displayed outside entrance to relevant premises—Notice displayed on inside of plate glass window beside entrance to premises—Notice legible from the outside—Whether notice 'displayed outside'—Whether notice required to be affixed to outside of premises—Gaming Act 1968, Sch 2, para 6(3). **R v Newcastle upon Tyne Gaming Licensing Committee, ex parte White Hart Enterprises Ltd** [1977] **3** 961, CA.

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Corruption of officer—
Whether gas board a public body. *See* **Criminal law** (Corruption—Public body—Meaning).

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Creation of express trust. *See* **Trust and trustee** (Creation of trust—Express trust—Declaration of trust).
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Trading receipt. *See* **Income tax** (Profits—Trading receipts—Voluntary payment).
Incomplete gift—
Perfecting gift—
Appointment of intended donee as administrator of intending donor—Proof of donor's intention—Need to prove continuing intention that donee should immediately take property intended to be given—Inconsistent dealing with property—Daughter agreeing to live with and look after elderly mother in mother's house for rest of her life—Daughter's understanding that mother would give house and contents to her—Daughter carrying out promise by returning to live with and look after mother—Mother subsequently purporting to give specific items from contents of house to daughter—Mother selling portions of house and adjoining land—Daughter appointed administrator on mother dying intestate—Whether appointment having effect of completing gift of house or contents. **Re Gonin (deceased)** [1977] **2** 720, ChD.

GIRL
Incest—
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Unlawful intercourse. *See* **Criminal law** (Sexual intercourse—Girl under 16).

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Liability of carrier. *See* **Carriers** (Loss or damage to goods).

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Premises occupied by tenant for the purposes of a business carried on by him—Government business. *See* **Landlord and tenant** (Rent—Limitation—Prohibition on increase in rate of rent—Business premises—Premises occupied by the tenant for the purposes of a business carried on by him—Business—Government business).
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Governmental obligation. *See* **Trust and trustee** (Nature of trust justiciable in court—Governmental obligation).

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GROSS NEGLIGENCE
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GUARDIAN
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HABEAS CORPUS
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HANDLING STOLEN GOODS
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Bankruptcy petition. *See* **Bankruptcy** (Petition—Hearing—Exclusion of public).
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HIRE—PURCHASE
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Obtaining credit—
Default in payment due under agreement—Undischarged bankrupt entering into hire—purchase agreement with finance company to purchase car. *See* **Bankruptcy** (Offences—Undischarged bankrupt obtaining credit—Obtaining credit—Default in payment due under agreement—No stipulation as to credit—Bankrupt entering into hire—purchase agreement with finance company to purchase car).

HOLIDAY
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HOUSE OF LORDS
Costs—
Taxation—
Increase to scale of costs—Exception to increase of counsel's fees and instructions item. **Procedure Direction** [1977] **3** 592, HL.
Leave to appeal—
Procedure where petition for leave appears incompetent—
Decision of Court of Appeal in certain matrimonial and related proceedings—Decision no longer to be final—Procedure where petition appears incompetent therefore no longer applicable—Supreme Court of Judicature (Consolidation) Act 1925, s 27(2)—Administration of Justice Act 1977, s 9(*a*). **Procedure Direction** [1977] **3** 581, HL.
Precedent— *See* **Precedent** (House of Lords).
Procedure—
List of authorities—
Division of list into two parts—Authorities which counsel definitely intends to cite and those which in counsel's opinion might be called for—Copies of lists. **Procedure Direction** [1977] **1** 624, HL.

HOUSEHOLD
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House occupied by persons who do not form a single household. *See* **Housing** (House in multiple occupation—House occupied by persons who do not form a single household).

HOUSEKEEPING SERVICES
Fatal accident—
Death of wife—
Damages for loss of housekeeping services. *See* **Fatal accident** (Damages—Death of wife—Loss of housekeeping services).

HOUSING
Compulsory purchase—
Property to be acquired—
Ancillary rights over adjoining land—Rights not in existence at date of compulsory purchase order—Power of local authority to compel grant of rights—Easements and quasi-easement necessary for enjoyment of property being acquired—Acquisition of block of residential maisonettes forming part of complex of buildings in single ownership—Complex in single ownership at date of order—Block of maisonettes above ground level—Maisonettes incapable of being used as dwellings without acquisition of ancillary rights of access etc—Whether local authority having power to acquire ancillary rights—Housing Act 1957, ss 96, 97(1), 189(1). **Sovmots Investments Ltd v Secretary of State for the Environment** [1977] **2** 385, HL.
Description of land in compulsory purchase order—Ancillary rights over adjoining land—Rights necessary for enjoyment of property being acquired—Rights not in existence at date of order—Rights not expressly included in order—Whether rights included in order by implication—Whether order valid. **Sovmots Investments Ltd v Secretary of State for the Environment** [1977] **2** 385, HL.
House in multiple occupation—
House occupied by persons who do not form a single household—
Household—Facts relevant in determining whether house occupied as single household—House maintained as a temporary refuge for women ill-treated by husbands—Population of house a large and fluctuating body—Occupants of house living communally—Whether occupants forming a 'single household'—housing Act 1969, s 58(1). **Simmons v Pizzey** [1977] **2** 432, HL.
Overcrowding. *See* Overcrowding, *post*.
Local authority houses—
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Order in divorce proceedings. *See* **Divorce** (Property—Adjustment order—Transfer of property—Local authority tenancy).
Overcrowding—
Directions to prevent or reduce overcrowding in houses in multiple occupation—
Direction by local authority limiting number of occupants in house—House not in multiple occupation at date when direction given—Whether direction valid—Housing Act 1961, ss 15(1), 19(1). **Simmons v Pizzey** [1977] **2** 432, HL.
Direction for the purpose of remedying a state of affairs calling for the service of a notice requiring execution of works by limiting number of occupants—Number of occupants less than prescribed limit at date when directions given—Whether direction valid—Housing Act 1961, ss 15(1), 19(1). **Simmons v Pizzey** [1977] **2** 432, HL.
House in multiple occupation. *See* House in multiple occupation, *ante*.

HUSBAND AND WIFE
Adoption of child—
Parent and step—parent of child. *See* **Adoption** (Application—Married couple—Parent and step—parent of child).
Bankruptcy—
Property available for distribution—
Matrimonial home. *See* **Bankruptcy** (Property available for distribution—Matrimonial home).
Child—
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Unborn child—Consent of both parents. *See* **Minor** (Change of surname—Unborn child—Consent of both parents).
Conduct—
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HUSBAND AND WIFE (cont)
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Divorce. *See* **Divorce**.
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Death of wife—
Quantum of damages. *See* **Fatal accident** (Damages—Death of wife).
Fraudulent conveyance—
Matrimonial proceedings—
Conveyance with intent to avoid potential debt—Extinguishment of claim by death before debt established. *See* **Fraudulent conveyance** (Conveyance of property with intent to defraud creditors—Potential creditor—Person having claim against grantor liable to give rise to future debt—Extinguishment of claim by death of grantor before debt established—Husband and wife—Matrimonial proceedings).
Income tax. *See* **Income tax** (Husband and wife).
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Breach of injunction—
Committal for contempt of court—Divorce proceedings. *See* **Contempt of court** (Committal—Breach of injunction—Divorce).
Matrimonial proceedings—
Ex parte injunction. *See* **Injunction** (Ex parte injunction—Matrimonial proceedings).
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Form of petition—
Standard form—Matrimonial Causes Rules 1973 (SI 1973 No 2016), r 9. **Practice Direction** [1977] **1** 845, FamD.
Undefended cause—
Special procedure—Trial—Directions for trial—Disposal of cause—Matrimonial Causes Rules 1973 (SI 1973 No 2016), rr 33(3), 48(1). **Practice Direction** [1977] **1** 845, FamD.
Maintenance—
Agreement—
Non-disclosure of material fact—Wife concealing intention to remarry following divorce—Right to rescind agreement—Contract uberrima fides—Wife's maintenance—Parties agreeing that husband should pay lump sum in full settlement of wife's claim to maintenance—Neither party disclosing means—Affidavit of means not yet filed—Whether wife under duty to disclose intention to remarry—Whether agreement a contract uberrima fides—Whether husband entitled to rescission of agreement. **Wales v Wadham** [1977] **2** 125, FamD.
Amount—
One—third rule—Neither party earning—One—third approach inappropriate—Duty of court to look at each party's needs and see what can best be done in the circumstances. **Cann v Cann** [1977] **3** 957, FamD.
Resources of party—Capital sum—Method of taking account of capital sum—Calculation of annuity obtainable from that sum—Application of annuity toward supplementing order. **Cann v Cann** [1977] **3** 957, FamD.
Order—
Variation or discharge. *See* Variation or discharge of maintenance order, *post*.
Matrimonial home—
Conduct of parties—
Relevance in taking accounts on sale of home following breakdown of marriage—Purchase in joint names on trust for sale—Mortgage in joint names—Wife leaving and subsequently proving cruelty and constructive desertion against husband—Husband remaining in property and paying all mortgage instalments—Wife seeking sale and division of property equally between husband and herself—Whether wife entitled to plead husband's matrimonial conduct as bar to his right to claim credit for mortgage repayments made by him subsequent to her leaving—Married Women's Property Act 1882, s 17. **Shinh v Shinh** [1977] **1** 97, ChD.
Mortgage repayments—
Interest payments—Home owned beneficially in equal shares—Wife leaving home—Husband remaining in home and thereafter making mortgage repayments—Repayments consisting mainly of interest payments on outstanding mortgage debt—Wife applying for sale of home and her half share of the proceeds—Whether husband entitled to credit for interest payments. **Suttill v Graham** [1977] **3** 1117, CA.
Sale under trust for sale—
Bankruptcy—Husband and wife joint tenants—Interests of children as a relevant consideration. *See* **Bankruptcy** (Property available for distribution—Matrimonial home—Sale under trust for sale).
Divorce—Factors to be taken into account—Needs of family—Need to provide home for remaining partner and children—Husband and wife joint tenants and beneficially entitled to equal shares—Wife and children remaining in home after divorce—Husband's sole capital tied up in home—Application by husband for sale of property—Duty of court to have regard to principles of matrimonial property legislation in determining whether to make order—Law of Property Act 1925, s 30. **Williams v Williams** [1977] **1** 28, CA.
Matrimonial order—
Appeal to High Court against order of magistrates—
Procedure—Form of notice of appeal—Certification whether other matrimonial proceedings pending between same parties—Documents required to be lodged in Principal Registry—RSC Ord 90, r 16. **Practice Direction** [1977] **2** 543, FamD.
Property—
Matrimonial home. *See* Matrimonial home, *ante*.
Separation—
Divorce. *See* **Divorce** (Separation).

HUSBAND AND WIFE (cont)
Variation of maintenance agreement—
Application—
Divorce proceedings—Agreement for the time being subsisting. *See* **Divorce** (Financial provision—Maintenance agreement for the time being subsisting).
Change in circumstances—
Duty of court to have regard to evidence before justices on previous occasions—Husband having retired from employment—Neither party earning—Duty of court to assess financial situation at time of hearing application but to have regard to evidence before court on previous occasions. **Cann v Cann** [1977] **3** 957, FamD.
Variation or discharge of maintenance order—
Variation of order registered in magistrates' court—
Power to fix maintenance de novo—Mistake by original court—Mistake in assessing husband's ability to pay amount of order—Effect of original order to depress husband below subsistence level—No change in husband's net income at date of application to vary—Wife receiving social security benefit—Contribution husband required to pay by Supplementary Benefits Commission factor to be considered in fixing maintenance—Whether magistrates' court having power to fix maintenance de novo—Maintenance Orders Act 1958, s 4(2)(*a*). **Smethurst v Smethurst** [1977] **3** 1110, FamD.

IDENTITY
Defamation cases—
Persons to whom publication made—
Innuendo—Persons having knowledge of facts rendering published words defamatory—Duty to plead particulars identifying those persons. *See* **Libel and slander** (Innuendo—Particulars—Duty of plaintiff to plead facts on which he relies for his claim—Identity of persons to whom publication made and who have knowledge of special facts which render published words defamatory).

IDENTITY CARD
Student travel scheme—
Sale of card for purpose of scheme—
Value added tax—Zero-rating—Transport of passengers. *See* **Value added tax** (Zero-rating—Transport of passengers—Supply of travel concession voucher—Student travel scheme—Sale of identity card for purpose of scheme).

ILLEGAL ENTRANT
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ILLEGALITY
Insurance. *See* **Insurance** (Illegality).

IMMIGRATION
Appeal—
Notice of appealable decision—
Whereabouts of person entitled to appeal unknown to authorities—Regulation providing that written notice need not be given to persons whose whereabouts are unknown—Whether regulation ultra vires—Immigration Act 1971, s 18(1)(*a*)—Immigration Appeals (Notices) Regulations 1972 (SI 1972 No 1683), r 3(4) **R v Immigration Appeal Tribunal, ex parte Mehmet** [1977] **2** 602, QBD.
Deporation—
Alien. *See* **Alien** (Deportation).
Detention—
Illegal entrant—
Entry in breach of immigration laws—Entrant not knowingly in breach of immigration laws—Leave to enter given on basis of false passport—Passport obtained for entrant by husband—Passport that of husband's second wife—Entrant, his third wife, illiterate and believing passport her own—Whether entrant an illegal entrant where ignorant that document on which leave based was false—Whether illegal entrant if leave to enter in fact given—Immigration Act 1971, ss 3(1)(*a*), 33(1). **Khan v Secretary of State for the Home Department** [1977] **3** 538, CA.
Leave—
Indefinite leave—
Entrant deemed to have indefinite leave of notice giving or refusing leave not given within prescribed period—Leave given which ought not to have been given—Leave to enter given on basis that passport valid—Passport stamped as valid—Immigration authority subsequently discovering passport false—Whether leave to enter given when passport stamped as valid—Whether leave a nullity—Whether notice giving or refusing leave not given—Whether entrant deemed to have indefinite leave to enter—Immigration Act 1971, Sch 2, para 6(1). **Khan v Secretary of State for the Home Department** [1977] **3** 538 CA.

IMMUNITY
Suit—
Barrister—
Negligence. *See* **Counsel** (Negligence—Immunity).
Immunity from suit—
Foreign sovereign state. *See* **Constitutional law** (Foreign sovereign state—Immunity from suit).

IMPLIED COVENANT
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IMPLIED TERM
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INCOME TAX
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Deduction of tax—
Payments not out of profits etc already taxed. *See* Annual payment—Payments not out of profits etc already taxed, *post*.
Payment out of profits etc already taxed—
Individual taxpayer—Onus of showing payment made out of taxed profits—Normally sufficient to show that in relevant year sufficient taxed profits in taxpayer's hands to entitle him to make deduction—Claim debarred only if possible to show an election by taxpayer that payments to be notionally attributed to capital rather than income—Income and Corporation Taxes Act 1970, s 52(1). **Inland Revenue Comrs v Plummer** [1977] **3** 1009, ChD.
Payments not out of profits already taxed—
Attribution by taxpayer to capital—Company incurring interest charges for purpose of its business—Interest payments charged to profit and loss account—Interest payments capitalised by transfer of equivalent sums to cost of land and buildings shown in balance sheet—Whether interest paid out of profits or gains brought into charge—Whether company liable to account for tax deducted from interest—Income Tax Act 1952, s 170. **Fitzleet Estates Ltd v Cherry (Inspector of Taxes)** [1977] **3** 996, HL.
Anticipated profits—
Discounting bills of exchange. *See* Computation of profits—Discounting bills of exchange—Anticipated profits, *ante*.
Appeal—
Settlement by agreement—
Agreement—Inspector agreeing settlement in principle—Apportionment of sum between capital gains tax and income tax—Taxpayer bringing actions for damages for breach of agreement to purchase shareholding and for compensation for loss of office—Actions settled by payment to taxpayer of single sum—Taxpayer proposing apportionment of sum between claims—Inspector of taxes agreeing apportionments in principle—No figures agreed—Inspector subsequently assessing entire sum to capital gains tax as award in respect of shares—Taxpayer claiming inspector bound by agreement—Whether inspector and taxpayer having 'come to an agreement'—Taxes Management Act 1970, s 54(1). **Delbourgo v Field (Inspector of Taxes)** [1977] **1** 323, ChD.

INCOME TAX (cont)
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Time limit—
Notice requiring wife to pay the tax she would have had to pay if separately assessed—Tax assessed on husband and attributable to wife's income. *See* Husband and wife—Collection from wife of tax assessed on husband and attributable to wife's income—Notice requiring wife to pay the tax she would have had to pay if separately assessed—Time limit, *ante*.
Avoidance—
Artificial transactions in land—
Acquisition of land with sole or main object of realising gain from disposal thereof—Person directly or indirectly providing opportunity of realising gain liable to tax on gain—Motive of person providing opportunity—Land owned by company controlled by English taxpayer—Land sold at full market value to Guernsey company controlled by him—Land subsequently sold to another company at a profit—Whether 'opportunity of realising gain provided directly or indirectly' by taxpayer—Whether motive of taxpayer to avoid United Kingdom tax on gain relevant in determining whether he has provided opportunity to realise gain—Whether taxpayer personally liable to tax on gain made by Guernsey company—Income and Corporation Taxes Act 1970, s 488(2)(3)(8) **Yuill v Wilson (Inspector of Taxes)** [1977] **3** 903, ChD.
Settlement—
Element of bounty—Bona fide commercial transaction—Tax avoidance scheme. *See* Settlement—Meaning—Element of bounty—Bona fide commercial transaction—Tax avoidance scheme, *post*.
Tax advantage. *See* Tax advantage, *post*.
Transfer of assets abroad—
Income payable to persons resident or domiciled out of United Kingdom—Persons resident out of United Kingdom—Settlement—Trustees—Transfer of assets to trustees resident out of United Kingdom to hold on discretionary trusts—Proper law of settlement law of Northern Ireland—Whether trustees 'persons resident out of United Kingdom'—Whether statutory provisions regarding tax avoidance applicable—Income Tax Act 1952, s 412, preamble. **Vestey v Inland Revenue Comrs** [1977] **3** 1073, ChD.
Prevention of avoidance of liability to tax—Income of transferee deemed to be income of transferor—Meaning of 'income'—Computation of income—Taxpayer resident in United Kingdom—Taxpayer transferring assets to investment company resident outside United Kingdom—Investment company incurring expenses of a revenue nature in managing portfolio—Whether management expenses deductible in computing income of company—Income Tax Act 1952, s 412(1). **Chetwode (Lord) v Inland Revenue Comrs** [1977] **1** 638, HL.
Receipt by United Kingdom resident of capital sum payment whereof connected with transfer or associated operation—Any income which by reason of transfer or associated operation income of transferee deemed to be income of recipient of capital sum—Any income—Settlement—Transfer of property to trustees abroad to hold on discretionary trusts—Investment of income from property to form capital fund—Income produced by investment of capital fund divided equally between two other funds—Accumulation and investment of income of each of those funds—Appointment of capital to beneficiary of one of those funds—Whether beneficiary chargeable to tax in respect of whole of income of settlement which had become payable to trustees thereafter—Income Tax Act 1952,s 412(2). **Vestey v Inland Revenue Comrs** [1977] **3** 1073, ChD.
Receipt by United Kingdom resident of capital sum payment whereof connected with transfer or associated operation—Any income which by reason of transfer or associated operation income of transferee deemed to be income of recipient of capital sum—Associated operation—Operation in relation to income arising from transferred assets or to assets representing the accumulations of income arising from such assets—Sub-accumulations—Capital sum paid out of accumulations of income of accumulations—Whether 'accumulations' including sub-accumulations of income—Whether payment 'connected with...associated operation'—Income Tax Act 1952, s 412(2)(4). **Vestey v Inland Revenue Comrs** [1977] **3** 1073, ChD.
Capital allowances—
Plant—
Books—Books purchased by barrister for purpose of carrying on his profession—Law reports and textbooks purchased by barrister in first year of practice—Whether 'plant' limited to things used simply as physical objects—Whether expenditure by barrister on purchase of books expenditure on provision of 'plant'—Finance Act 1971, ss 41(1), 47(1). **Munby v Furlong (Inspector of Taxes** [1977] **2** 953, CA.
Capital or income expenditure—
Deduction in computing profits. *See* Deduction in computing profits, *post*.
Child relief—
Entitlement—
Custody of child—Person other than parent having custody—Legal or factual custody—Wife leaving husband to live with another man—Children of marriage living with wife and man in man's house as a family—Man assuming responsibility for family and contributing to maintenance of children—Legal custody of children in wife—Husband also contributing to children's maintenance—Whether man had 'custody' of children—Whether entitled to claim child relief—Income and Corporation Taxes Act 1970, s 10(1)(*b*) (as amended by the Finance Act 1971, s 37, Sch 6, para 6(*a*). **Robertson v Walton** [1977] **1** 465, ChD.
Compensation—
Loss of office—
Emoluments from office or employment. *See* Emoluments from office or employment—Compensation—Loss of office, *post*.
Computation of profits—
Deductions. *See* Deduction in computing profits, *post*.

INCOME TAX (cont)

Computation of profits (cont)—

Discounting bills of exchange—

Anticipated profits—Increase in value of bills as maturity approaches—Apportioned part of increase for each year preceding maturity treated as profit attributable to that year—Bank discounting or purchasing discounted bills—Bills sold or held to maturity—Provision made in annual accounts including proportion of anticipated profits—Profits realised on sale or maturity—Whether proportion of profits anticipated on sale or maturity to be included in bank's taxable profits for accounting years preceding sale or maturity. **Willingale (Inspector of Taxes) v International Commercial Bank Ltd** [1977] **2** 618, CA.

Year in which profit arising—

Change in method of valuation of work in progress showing surplus representing anticipated profits of earlier years—Change from on-cost basis to accrued profit basis of valuation—Change in valuation resulting in surplus profit—Revaluation of work in progress at beginning of first accounting period in which accrued profit method applied—Whether resulting surplus chargeable to tax as profits arising in that accounting period—Income and Corporation Taxes Act 1970, s 247(1). **Pearce (Inspector of Taxes) v Woodall-Duckham Ltd** [1977] **1** 753, ChD.

Corporation tax—

Computation of profits. *See* Computation of profits, *ante*.

Deduction in computing profits—

Capital or revenue expenditure—

Payment to secure improvement in asset—Payment to secure modification of rent obligation in lease—Modification necessary to enable taxpayer to trade profitably—Modification resulting in reduction of revenue expenses—Whether capital or revenue expenditure. **Tucker (Inspector of Taxes) v Granada Motorway Services Ltd** [1977] 3 865, ChD

Discounting bills of exchange—

Computation of profits. *See* Computation of profits—Discounting bills of exchange, *ante*.

Disposition—

Meaning—

Element of bounty. *See* Settlement—Meaning—Element of bounty, *post*.

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Financial provision—

Effect of order sought. *See* **Divorce** (Financial provision—Evidence—Effect of order sought—Tax).

Divorce proceedings—

Financial provision—

Tax implications. *See* **Divorce** (Financial provision—Tax implications).

Emoluments from office or employment—

Compensation—

Loss of office—(Exemption from tax—Contract not requiring holder of office to perform any duties in United Kingdom—Contract of employment with foreign company—Contract not stipulating where duties to be performed—Implication of term that duties not required to be performed in United Kingdom—Appointment as managing director of company carrying on business abroad—Performance of some duties in United Kingdom within three years of termination of contract—Whether exempt from tax only if express provision in contract that duties need not be performed in United Kingdom—Income and Corporation Taxes Act 1970, s 188(2)(*b*). **Wienand v Anderton (Inspector of Taxes)** [1977] **1** 384, ChD.

Gift—

Trading receipt. *See* Profits—Trading receipts—Voluntary payment, *post*

Husband and wife—

Collection from wife of tax assessed on husband and atrributable to wife's income—

Notice requiring wife to pay the tax she would have had to pay if separately assessed—Time limit—Assessment on husband in time—Non-payment by husband of surtax—Assessments to surtax made in 1962 and 1966—Death of husband—Notice served on wife in 1974 requiring her to pay that part of unpaid tax which would have been payable by her if she had been separately assessed—Whether notice raising new assessment on wife—Whether time limit for making assessments applicable to notice—Whether notice effective—Taxes Management Act 1970, s 34—Income and Corporation Taxes Act 1970, s 40(2). **Johnson v Inland Revenue Commissioners** [1977] **1** 390, ChD.

Divorce—

Financial provision—Tax implications. *See*

Loss of office—

Compensation—

Emoluments from office or employment. *See* Emoluments from office or employment—Compensation—Loss of office, *ante*.

Profits—

Annual payment—

Payment out of profits already taxed. *See* Annual payment—Payment out of profits etc already taxed, *ante*.

Payments not out of profits etc already taxed. *See* Annual payment—Payments not out of profits etc already taxed, *ante*.

Computation. *See* Computation of profits, *ante*.

INCOME TAX (cont)
Profits (cont)—
Trading receipts—
Voluntary payment—Payment attributable to specific work—Payment by third party—Third party under no legal or moral obligation to make payment—Taxpayer estate agent—Taxpayer retained by client to negotiate purchase of site for development—Taxpayer inadequately remunerated for work done in acquiring site for client—Custom whereby estate agents who had negotiated purchase of site retained to do more remunerative work of selling and letting property built on site—Site sold by client to third party before taxpayer having opportunity to do more remunerative work—Third party refusing to appoint taxpayer as selling agent—Ex gratia payment by third party as compensation for loss of opportunity to obtain additional remuneration—Whether payment chargeable to tax as trading receipt. **McGowan (Inspector of Taxes) v Brown and Cousins (trading as Stuart Edwards)** [1977] **3** 844, ChD.
Rate—
Surcharge on surtax rate for previous year—
Retrospective operation of statute. *See* Statute—Retrospective operation—Surcharge on surtax rate for previous year, *post*.
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Child. *See* Child relief, *ante*.
Residence—
Tax avoidance—
Transfer of assets abroad—Income payable to persons resident out of United Kingdom. *See* Avoidance—Transfer of assets abroad—Income payable to persons resident or domiciled out of United Kingdom, *ante*.
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Meaning—
Element of bounty—Bona fide commercial transaction—Tax avoidance scheme—Transaction part of scheme—Disposition for good and sufficient consideration—Sale of annuity by surtax payer to charitable company—Transaction involving no element of bounty on either side—Whether a 'disposition' or 'settlement'—Income and Corporation Taxes Act 1970, ss 434, 454(3), 457(1). **Inland Revenue Comrs v Plummer** [1977] **3** 1009, ChD.
Revocable settlement—
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Tax avoidance—
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Settlement of appeal by agreement. *See* Appeal—Settlement by agreement, *ante*.
Statute—
Retrospective operation—
Surcharge on surtax rate for previous year—Surcharge on assessment imposed retrospectively—Validity of surcharge—Finance Act 1974, s 8(2). **James v Inland Revenue Comrs** [1977] **2** 897, ChD.
Tax advantage—
Counteracting—
Appeal against notice—Statutory grounds of appeal—Taxpayer wishing to question notice on other grounds—Claim for declaratory relief—Notification by commissioners specifying transactions in question—Decision of tribunal that prima facie case for proceeding—Taxpayer claiming declarations in High Court that notification and decision void on ground commissioners' reasons for questioning transactions not disclosed to him—Whether taxpayer entitled to claim declarations—Whether taxpayer limited to statutory appeal procedure—Income and Corporation Taxes Act 1970, s 462(1). **Balen v Inland Revenue Comrs** [1977] **2** 406, ChD.
Commissioners' counter-statement—Validity—Counter-statement containing detailed analysis of events leading up to transactions in question and laying foundation of commissioners' case—Counter-statement not shown to taxpayer—Whether tribunal entitled to take counter-statement into consideration—Whether commissioners required to make known their case to taxpayer—Income and Corporation Taxes Act 1970, s 460(7)(*a*). **Balen v Inland Revenue Comrs** [1977] **2** 406, ChD.
Notice—Validity—Notification by commissioners specifying transactions in question—Reasons for questioning transactions not stated in notification—Whether commissioners required to make known their case to taxpayer—Whether notification void—Income and Corporation Taxes Act 1970, s 460(6). **Balen v Inland Revenue Comrs** [1977] **2** 406, ChD.
Time limit—
Assessment—
Notice requiring wife to pay the tax she would have had to pay if separately assessed—Tax assessed on husband and attributable to wife's income. *See* Husband and wife—Collection from wife of tax assessed on husband and attributable to wife's income—Notice requiring wife to pay the tax she would have had to pay if separately assessed—Time limit, *ante*.
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Work in progress—
Change in method of valuation—
Change showing surplus representing anticipated profits of earlier years—Year in which profit arising. *See* Computation of profits—Year in which profit arising—Change in method of valuation of work in progress showing surplus representing anticipated profits of earlier years, *ante*.

INCOME TAX (cont)
Year—
Profits—
Year in which profit arising—Computation of profits. *See* Computation of profits—Year in which profit arising, *ante*.

INCOMPLETE GIFT
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INDECENT ASSAULT
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Duplicity—
Information in criminal proceedings before magistrates. *See* **Magistrates** (Information—Duplicity).
Handling stolen goods. *See* **Criminal law** (Handling stolen goods—Indictment).
Joinder of charges—
Conspiracy count and substantive counts—
Duty of prosecution to justify joinder of conspiracy count with substantive counts—Election to proceed with substantive or conspiracy counts required if joinder not justified. **Practice Note** [1977] **2** 540, QBD.
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Summary trial. *See* **Magistrates** (Summary trial—Offence triable summarily or on indictment).

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Disablement benefit—
Accident arising out of and in course of employment—
Recreational activities—Employee expected to take part in activities but under no duty to do so—Police constable injured in football match—Constable representing his force in match—Match played during constable's off-duty time—Whether injury 'arising.. in the course of his employment'—Whether injury suffered whilst doing act reasonably incidental to his employment—National Insurance (Industrial Injuries) Act 1965, s 5(1). **R v National Insurance Comr, ex parte Michael** [1977] **2** 420, CA.

INDUSTRIAL RELATIONS
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Statutory basis of jurisdiction—
Enforceable rights under treaties creating European Communities—Right not to be discriminated against by employer on ground of sex—Whether tribunal having jurisdiction to entertain complaint based on violation of right—European Communities Act 1972, s 2(1)—EEC Treaty, art 119. **Amies v Inner London Education Authority** [1977] **2** 100, EAT.
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Lay members—
Members having special knowledge and experience—Members entitled to use knowledge and experience to fill gaps in evidence. **Dugdale v Kraft Foods Ltd** [1977] **1** 454, EAT.
Procedure—
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Application for equal pay—Information to be summarised in reasons for decision—Desirability of employer attending hearing and providing all relevant information in comprehensive form—Need for tribunal to state in reasons for decision all relevant information placed before it. **Eaton Ltd v Nuttall** [1977] **3** 1131, EAT.
Reasons for decision—Applications heard together—Different decisions given on applications—Facts and considerations relevant to each application to be summarised separately. **Dugdale v Kraft Foods Ltd** [1977] **1** 454, EAT.
Res judicata—Oral decision—Finding of tribunal communicated orally to parties—Decision not put into writing because of chairman's illness—Application for compensation for unfair dismissal—Oral decision that dismissal unfair communicated to both parties—Tribunal recommending employee's reinstatement—Matter of reinstatement or compensation not considered by tribunal because of chairman's illness—Whether second, differently constituted, tribunal had jurisdiction to hear application de novo—Whether first tribunal's decision a final judgment. **Jowett v Earl of Bradford** [1977] **2** 33, EAT.

INDUSTRIAL TRIBUNAL (cont)
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Generally. *See* **Minor**.
Gross indecency with infant. *See* **Criminal law** (Gross indecency—Child.)
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INFIRM PERSON
Manslaughter—
Assumption of duty of care for infirm person—
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Alternative remedies not exhausted—
Power of court to grant relief—Breach of statute—Statutory remedy for breach—Statutory remedy by way of prosecution in magistrates' court—Fines payable under statute relatively small—Defendant unlawfully holding Sunday market—Defendant prosecuted once by local authority—Defendant instituting appeal against conviction but appeal not yet determined—Defendant continuing to flout statutory provision against Sunday trading—Profits arising from market making it worthwhile for defendant to contravene statute and pay the fines—Whether injunction should be granted. **Stafford Borough Council v Elkenford Ltd** [1977] **2** 519, CA.
Breach of injunction—
Committal for contempt of court. *See* **Contempt of court** (Committal—Breach of injunction).
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Injunction to restrain breach of criminal law—
Relator action by Attorney-General. *See* **Attorney-General** (Relator action—Injunction—Breach of criminal law).
Ex parte injunction—
Discharge—
Application by one defendant—Other defendants not having applied for discharge—Court satisfied at hearing of application that injunctions against all defendants should be discharged—Whether court having jurisdiction to discharge injunctions against defendants who had not applied for discharge. **R D Harbottle (Mercantile) Ltd v National Westminster Bank Ltd** [1977] **2** 862, QBD.
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When court should grant ex parte injunction—Grant of injunction only in an emergency where interests of justice or protection of applicant or a child require immediate intervention—Duration of ex parte injunction—Date of expiry to be specified—Injunction to be limited to the period required to arrange a hearing inter partes—Longer period may be fixed if difficulty in serving other party anticipated but order should then provide that other party can apply to court on 24 hours' notice to discharge injunction—Interim injunction granted on husband's ex parte application restraining wife from entering matrimonial home or molesting husband—Validity. **Ansah v Ansah** [1977] **2** 638, CA.
Husband and wife—
Ex parte injunction. *See* Ex parte injunction—Matrimonial proceedings, *ante*.
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Action by member of public to enforce public right—
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INJUNCTION (cont)
Interlocutory (cont)—
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Injunction restraining removal of assets out of the jurisdiction—Injunction in advance of judgment on plaintiff's claim—Discretion to grant injunction when just and convenient to do so—Factors to be considered in exercising discretion—Injunction may be granted where plaintiff has a good arguable case on claim against defendant—Injunction may be granted in respect of goods as well as assets—Fact that grant of injunction might compel defendant to give security, making it just and convenient to grant injunction—Supreme Court of Judicature (Consolidation) Act 1925, s 45(1). **Rasu Maritima SA v Perusahaan Pertambangan Minyak Dan Gas Bumi Negara (Pertamina) and Government of Indonesia (as interveners)** [1977] **3** 324, CA.
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Continuing threat of damage—
Balance of conflicting interests—Interest of public at large conflicting with interest of private individual—Cricket played on village cricket ground for 70 years—House then built on edge of ground—Cricket balls landing on householder's property and causing damage—Precautionary measures taken by cricket club incapable of affording complete protection against continuing threat of damage—Householder applying for injunction to prevent use of ground for cricket—Nuisance established—Whether public interest of inhabitants of village in preserving ground for recreation should prevail over private interest of householder—Whether injunction should be granted. **Miller v Jackson** [1977] **3** 338, CA.
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Liability insurance—
Contribution between insurers of same risk—
Rateable proportion clause—Assessment of rateable proportion—Basis—Independent liability basis—Liability of each insurer ascertained as if he were the sole insurer—Total liability to assured divided in proportion to independent liabilities. **Commercial Union Assurance Co Ltd v Hayden** [1977] **1** 441, CA.
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INTEREST (cont)
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Time when judgment 'entered up'—Time when judgment pronounced or time when judgment entered up in book or otherwise perfected—Damages—Whether plaintiff entitled to interest on damages from date judgment pronounced—Judgment Act 1838, s 17. **Parsons v Mather & Platt Ltd** [1977] **2** 715, QBD.
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Doctrine of stare decicis—Change in rule of international law—Earlier rule recognised by decision of English court—Effect of doctrine of stare decisis—Rule recognised by decision of English court no longer prevailing rule of international law—Change in rules of international law relating to sovereign immunity—Whether rule recognised by decision of English court or prevailing rule of international law forming part of English law—Whether English court bound to follow earlier decision or free to recognise new rule of international law. **Trendtex Trading Corpn Ltd v Central Bank of Nigeria** [1977] **1** 881, CA.
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Duty of landlord to keep in repair the structure and exterior of the dwelling house—Particular part of building demised—Flat in block of flats—'Exterior' of flat—'Exterior' of flat including anything which in ordinary language was part of the exterior—Exterior not limited to parts included in demise—Outside walls of flat expressly excluded from demise—Outside walls part of exterior of flat—Other parts of structure included in 'exterior' of the flat—Housing Act 1961, s 32(1)(*a*). **Campden Hill Towers Ltd v Gardner** [1977] **1** 739, CA.

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Accrual of cause of action—Negligence—Damage—Lapse of time between negligent act and occurrence of damage—Action against local authority for breach of duty to secure compliance with building by-laws—Construction of block of maisonettes—Block built on inadequate foundations—Consequent damage to structure occurring more than six years after first conveyance of maisonettes—Writ issued within six years of discovery of damage—Whether cause of action accrued on date of first conveyance or on date when damage occurred—Whether action brought after expiration of six years from the date on which the cause of action accrued'—Limitation Act 1939, s 2(1)(*a*). **Anns v London Borough of Merton** [1977] **2** 492, HL.

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LIQUIDATOR
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Winding-up. *See* **Company** (Winding-up—Liquidator).

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Duty to take care—
Act performed in exercise of statutory powers. *See* **Negligence** (Duty to take care—Statutory powers—Act performed in exercise of powers—Local authority).
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Practice. *See* **Practice** (Parties—Local authority).
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Local government. *See* **Local government** (Maladministration—Complaint to local commissioner).

LOCAL GOVERNMENT
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Complaint to local commissioner—
Production of documents or information to commissioner for purpose of investigating complaint—Notice served by local authority on commissioner that disclosure of documents would be contrary to public interest—Effect of service of notice—Documents or information not authorised or required to be communicated by any persons to any other person—Records relating to child in care of local authority—Commissioner issuing subpoena requiring production of records—Whether commissioner 'any other person' to whom communication of document or information not authorised or required to be made—Whether local authority required to produce records—Local Government Act 1974, s 32(3).
Re a complaint against Liverpool City Council [1977] 2 650, QBD.
Rates. *See* **Rates**

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Appeal—
Locus standi of appellant. *See* **Trade union** (Certification as independent trade union—Appeal—Locus standi of appellant).
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Obtaining pecuniary advantage by deception—Evasion or deferment of debt—Information alleging dishonest obtaining of pecuniary advantage by evasion or deferment of debt—Whether more than one offence charged—Whether information bad for duplicity—Theft Act 1968, s 16(1). **Bale v Rosier** [1977] **2** 160, QBD.
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Access to minor. *See* **Minor** (Custody—Access—Enforcement of order—Magistrates' court).
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Attempt to commit crime—
Merger with completed offence. *See* **Criminal law** (Attempt—Full offence committed—Merger—Summary proceedings).
Offence triable summarily or on indictment—
Factors justices entitled to take into account in determining mode of trial—Previous conviction—Corporation—No power of committal for sentence if offence tried summarily—Offence punishable by larger fine if tried on indictment—Whether justices entitled to be informed of company's previous conviction for a similar offence when deciding whether offence should be tried summarily—Magistrates' Courts Act 1952, s 29, Sch 2, para 7 (as amended by the Courts Act 1971, Sch 8, para 34(1). **R v Colchester Justices, ex parte North Essex Building Co Ltd** [1977] **3** 567, QBD.
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Order registered in magistrates' court—
Variation. *See* **Husband and wife** (Variation or discharge of maintenance order—Variation of order registered in magistrates' court).
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Transcripts of evidence given by witnesses at investigation into company's affairs—Summons to inspector requiring him to produce transcripts in criminal proceedings resulting from investigation—Whether documents material evidence in criminal proceedings—Sole purpose of documents for use in cross-examination of witnesses at trial—Companies Act 1948, s 165. **R v Cheltenham Justices, ex parte Secretary of State for Trade** [1977] **1** 460, QBD

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MARKETS AND FAIRS
Local authority—
Proceedings for injunction to prevent use of premises for Sunday market—
Action by local authority in own name. *See* **Practice** (Parties—Local authority—Assertion and protection of rights of public—Local authority instituting proceedings for injunction to prevent use of premises for Sunday market).

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Employer's rights under service agreement—Payment to employer by employee to secure release from service agreement. *See* **Capital gains tax** (Disposal of assets—Assets—Employer's rights under service agreement with employee—Payment to company by director to secure release from service agreement).
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Exclusion from right to redundancy payment. *See* **Redundancy** (Exclusion from right to redundancy payment—Conduct entitling employer to terminate contract of employment without notice).
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Safety of employees—
Common law duty to protect employee from foreseeable risk of danger to health—Need to take competent advice about precautions—Noise—Danger to hearing—Employer police authority—Employee ballistics expert required to carry out shooting tests in course of work—Tests carried out in small unsoundproofed room—Employers making no enquiries about possible risk to employee's hearing from noise of shooting—Employer leaving it to employee to make enquiries—Employee's hearing seriously injured by noise of shooting—Whether employer in breach of duty to take reasonable care to protect employee from foreseeable risk of injury to hearing. **McCafferty v Metropolitan Police District Receiver** [1977] **2** 756, CA.
Equality of treatment for men and women. *See* **Employment** (Equality of treatment for men and women).
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MASTER AND SERVANT (cont)
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Maintenance agreement. *See* **Husband and wife** (Maintenance—Agreement—Non-disclosure of material fact).

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Sale under trust for sale. *See* **Bankruptcy** (Property available for distribution—Matrimonial home—Sale under trust for sale).
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Divorce—
Sale under trust for sale. *See* **Husband and wife** (Matrimonial home—Sale under trust for sale—Divorce).

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Practice. *See* **Practice** (Family Division—Solicitor acting in matrimonial proceedings for petitioner).

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Variation of order—Change in means of parties since original order made. *See* **Divorce** (Financial provision—Variation of order—Matters to be considered—Change in means of parties since original order made).

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Equality of treatment—
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Percentage fee calculated by reference to clear income at patient's disposal—Clear income—Calculation—Elderly patient—Court of Protection exercising its authority on three occasions only—Constant attendance allowance, age allowance and sums received gross before deduction by tax included in clear income—No deduction made for court fees and solicitors' fees—Whether these items should be included in clear income—Whether fee ought to be remitted—Court of Protection Rules 1960 (SI 1960 No 1146), r 87. **Re N (deceased)** [1977] 2 687, CA.

MENTAL HEALTH (cont)
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Receiver—
Discharge of receiver—Discharge where judge considers it expedient—Expedient—Whether meaning expedient for patient or expedient in interests of all persons connected with receivership—Mental Health Act 1959, s 105(2). **Re N (deceased)** [1977] **2** 687, CA.

MERGER
Attempt to commit crime—
Full offence committed. *See* **Criminal law** (Attempt—Full offence committed—Merger).

MESNE PROFITS
Action for forfeiture of lease—
Interim payments order—
Order pending determination of action. *See* **Landlord and tenant** (Forfeiture of lease—Interim payments order—Action for forfeiture and mesne profits—Application by landlord for interim payments order pending determination of action).

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MINOR
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Generally. *See* **Adoption**
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Change of surname—
Deed poll—
Consent of parent—Application by parent not having custody or care and control of child—Consent of other parent—Leave to enrol deed to be granted if consent in writing of other parent produced or other parent dead, beyond the seas or cannot be found despite exercise of reasonable diligence—RSC Ord 63, r 10. **Practice Direction** [1977] **3** 451, QBD.
Consent of parent—Application by parent having custody or care and control of child—Consent in writing of other parent required—Procedure where application not supported by consent of other parent—RSC Ord 63, r 10. **Practice Direction** [1977] **3** 451, QBD.
Divorce of parents—
Leave of court to change surname in absence of parent's consent—Welfare of minor as first and paramount consideration—Mother leaving father before birth of child and going to live with co—respondent—Mother having joint custody and care and control of child—Mother proposing to marry co—respondent and bring up child as child of family—Whether in interests of child that mother should be given leave to change surname of child to that of co—respondent. **D v B (otherwise D) (child :surname)** [1977] **3** 751, FamD.
Unborn child—
Consent of both parents—Husband and wife separating before birth—Wife adopting new surname by deed poll—Deed poll failing to state as required by regulations that notice given to husband and husband's consent obtained—Child registered with wife's adopted surname—Whether consent of husband or order of court required before child could be given wife's adopted surname rather than husband's. **D v B (otherwise D)(child :surname)** [1977] **3** 751, FamD.
Custody—
Access—
Enforcement of order—Order of magistrates' court—Whether power to enforce order by imposing monetary penalty or by committal to prison—Magistrates' Courts Act 1952, s 54(3)—Guardianship of Minors Act 1971, s 9(1). **Re K (a minor)(access order :breach)** [1977] **2** 737, FamD.
Stay of order—Appeal—Whether power to stay access order pending appeal. **Re K (a minor) (access order :breach)** [1977] **2** 737, FamD.
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Factors to be considered—Interest of minor paramount consideration—Continuity of care an important factor—Father applying for custody—Mother having had adulterous relations with several men—Whether unimpeachable character of father a relevant consideration—Whether mother entitled to retain care and control of children. **S (B D) v S (D J) (infants : care and consent)** [1977] **1** 656, CA.
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Income tax relief. *See* **Income tax** (Child relief—Entitlement—Custody of child).
Death of mother—
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Damages for loss of services as mother. *See* **Fatal accident** (Damages—Death of mother—Loss of services as mother).
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Criminal proceedings. *See* **Criminal evidence** (Child).
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Funds exceeding £7,500—
Holding by Public Trustee out of court—Direction by court—Practice. *See* **Practice** (Funds in court—Funds exceeding £7,500—Holding by Public Trustee out of court—Direction by court—Minors' funds).
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Income tax relief. *See* **Income tax** (Child relief).

MINOR (cont)
Maintenance—
Payment to minor—
Receipt of custodial parent—Avoidance of allegation by minor when of age that maintenance never received—Registration of order in magistrates' court—Order to provide that receipt of custodial parent valid receipt for payment to minor—Right of custodial parent to apply for enforcement of order—Orders for payment direct to minor not to be made where of no benefit to parties or no tax advantage—Nominal orders, orders pending suit and interim orders not to be registered except in special circumstances **Practice Direction** [1977] 3 942, FamD.
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MISREPRESENTATION
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Possession without certificate—
Mistaken belief as to nature of firearm. *See* **Firearms** (Possession—Possession of firearms without a certificate—Mistaken belief as to nature of firearm).
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Variation of order—Power to fix maintenance de novo—Mistake by original court. *See* **Husband and wife** (Variation or discharge of maintenance order—Variation of order registered in magistrates' court—Power to fix maintenance de novo—Mistake by orignal court).
Mistake of fact—
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Estoppel by representation—Prejudice suffered by person misled making it inequitable to require him to make restitution—Money paid to party misled under mistake of fact. *See* **Estoppel** (Representation—Prejudice suffered by party misled by misrepresentation—Prejudice making it inequitable to require party misled to make restitution—Money paid to party misled under mistake of fact).

MOBILE HOME
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Statutory provision conferring jurisdiction on a particular court—
Proceedings commenced in wrong court—Transfer of proceedings to correct court. *See* **County court** (Transfer of action—Transfer to another county court—Proceedings commenced in wrong court—Statutory provision conferring jurisdiction on a particular court).

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Foreign currency—
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Payment into court—
Practice. *See* **Practice** (Payment into court).

MONEYLENDER
Limitation of action—
Proceedings for recovery of money lent by moneylender—
Proceedings for enforcement of security taken in respect of loan made by moneylender. Unenforceable loan contract—Loan and charge securing loan unenforceable—Subrogation of moneylender to rights of paid-off creditor—Action by moneylender in exercise of subrogated rights to recover amount of loan—Whether 'proceedings...for the recovery...of... money lent' by moneylender—Whether 'proceedings...for the enforcement of any...security taken...in respect of any loan made' by moneylender—Whether proceedings subject to 12 month limitation period—Moneylenders Act 1927, s 13(1). **Orakpo v Manson Investments Ltd** [1977] **3** 1, HL.
Unenforceable loan contract—Loan and charge securing loan unenforceable—Subrogation of moneylender to rights of paid off creditor—Action by moneylender in exercise of subrogated rights to recover amount of loan—Whether 'proceedings...for the recovery...of... money lent' by moneylender—Whether proceedings subject to one year limitation period—Moneylenders Act 1927, s 13(1). **Orakpo v Manson Investments Ltd** [1977] 1 666, CA.
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Sufficiency—
Composite documents—Discrepancies between terms of conjoined documents—Loan secured by legal charge on property—Memorandum incorporating legal charge—Discrepancies between terms of memorandum and terms of legal charge—Whether composite memorandum contained all the terms of the contract—Whether necessity for reference to court to resolve discrepancies rendering memorandum insufficient—Moneylenders Act 1927, s 6(1)(2). **Holiday Credit Ltd v Erol** [1977] 2 696, HL.

MONEYLENDER (cont)
Security—
Enforcement—
Security given by the borrower or his agent—Subrogated rights—Unenforceable loan contract—Sum advanced used to pay off existing charge on property—Term of contract that loan to be secured by charge on property in respect of which loan made—Charge executed but unenforceable—Lender entitled by subrogation to security represented by existing charge on property—Whether subrogated right a 'security given by the borrower'—Whether subrogated right enforceable—Moneylenders Act 1927, s 6(1). **Orakpo v Manson Investments Ltd** [1977] **3** 1, HL.

MONUMENT
Memorial tablet within church. *See* **Ecclesiastical law** (Monument—Memorial tablet within church).

MORTGAGE
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Mortgage repayments. *See* **Husband and wife** (Matrimonial home—Mortgage repayments).
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Damages for loss of services as mother. *See* **Fatal accident** (Damages—Death of mother—Loss of services as mother).

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MOTOR INSURANCE
Knock-for-knock agreement—
Claim by insured against another car owner—
Effect of knock-for-knock agreement—Assignment of right of action—Insured recovering part of damage from insurers—Claim against other car owner for full amount of damage—Whether knock-for-knock agreement between insured's insurers and other party's insurers effecting equitable assignment of insured's right of action for amount recovered from own insurers—Whether insured precluded from bringing action for full amount of damages. **Hobbs v Marlowe** [1977] **2** 241, HL.

MOTOR VEHICLE
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MULTIPLE OCCUPATION HOUSES
See **Housing** (House in multiple occupation).

MURAL TABLET
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Ecclesiastical law. *See* **Ecclesiastical law** (Monument—Memorial tablet within church).

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Minor's surname. *See* **Minor** (Change of surname).
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Nomination paper—Names of candidates. *See* **Elections** (Local government—Nomination papers—Names of candidates).

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Review by Secretary of State—
Duty to review in each tax year rates of certain benefits to determine whether they have retained their value in relation to the general level of earnings or prices—Period to which Secretary of State must have regard for purposes of review—Social Security Act 1975, s 125(1). **Metzger v Department of Health and Social Security** [1977] **3** 444, ChD.
Supplementary benefit. *See* **Supplementary benefit**.

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NATIONAL SECURITY
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Validity of order. *See* **Alien** (Deportation—Order—Validity—Natural justice—Deportation in the interest of national security).

NATURAL JUSTICE
Deportation of alien—
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Legal representation—
Police—
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Objection by tenant to rent officer's determination of fair rent—Reference to committee—Tenant purporting to withdraw objection before hearing—Tenant believing objection withdrawn and not attending hearing—Committee at hearing considering increase in rent—After hearing and before decision committee realising reason for tenant's absence—Whether committee bound to give tenant opportunity of being heard before deciding whether to increase rent. **Hanson v Church Comrs for England** [1977] **3** 404, CA.
Trade union—
Dismissal of union official from office—
Applicability of rules of natural justice—Executive committee of union—Union rule that official to hold office so long as he gave satisfaction to committee—Dismissal on ground that performance of official unsatisfactory—Official not informed before hearing of charges being made against him—Request at hearing for charges and evidence to be put into writing refused—Refusal to adjourn hearing to allow official to prepare defence—Whether executive committee bound to comply with rules of natural justice—Whether decision of committee made in breach of natural justice void ab initio. **Stevenson v United Road Transport Union** [1977] **2** 941, CA.

NEGLECT OF DUTY
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Assumption of duty of care for infirm person—
Breach of duty amounting to recklessness. *See* **Criminal law** (Manslaughter—Recklessness or gross negligence—Assumption of duty of care for infirm person—Breach of duty amounting to recklessness).

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Owner of realty—
Duty to take care. *See* Duty to take care—Owner of realty—Builder, *post*.
Damages—
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Duty to take care—
Employer—
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Information or advice. *See* Information or advice, *post*.
Owner of realty—
Builder—Duty to subsequent purchaser in respect of hidden defects—Negligence in construction of house—Inadequate foundations—Defect causing damage to house after purchase by subsequent purchaser—Builder in breach of duty of care to subsequent purchaser—Immaterial that builder owner of house when defect created. **Anns v London Borough of Merton** [1977] **2** 492, HL.
Statutory powers—
Act performed in exercise of powers—Local authority—Building operations—Legislation giving authority control over building operations—Byelaws requiring approval of foundations of building by authority's inspector before being covered up—Inspector carrying out inspection but failing to take reasonable care to ensure that foundations adequate—Building constructed on inadequate foundations—Subsequent damage to structure of building resulting from inadequate foundations—Whether local authority in breach of duty of care to owner or occupier of building at time damage occurs. **Anns v London Borough of Merton** [1977] **2** 492, HL.
Non-exercise of power—Circumstances in which non-exercise of power capable of amounting to a breach of duty of care—Local authority—Building operations—Legislation giving authority control over building operations—Byelaws requiring approval of foundations of building by authority's inspector before being covered up—Authority not carrying out inspection of foundations—Building constructed on inadequate foundations—Subsequent damage to structure of buildings resulting from inadequate foundations—Local authority not under statutory duty to inspect foundations—Whether failure to carry out inspection capable of amounting to breach of duty of care. **Anns v London Borough of Merton** [1977] **2** 492, HL.
Gross negligence—
Manslaughter. *See* **Criminal law** (Manslaughter—Recklessness or gross negligence).
Information or advice—
Assumption of duty of care—
Duty to give information about change of circumstances affecting statement previously made—Landlord and tenant—Covenant by tenant to insure premises against fire—Landlord informing tenant premises insured under block policy—Landlord arranging to insure premises under policy for two years thereafter and charging tenant with appropriate proportion of premium—Block policy cancelled without notice to tenant—Premises uninsured when damaged by fire—Liability of landlord to tenant—Whether landlord under duty to inform tenant block policy not being renewed. **Argy Trading Development Co Ltd v Lapid Developments Ltd** [1977] **3** 785, QBD

NEGLIGENCE (cont)
Information or advice (cont)—
Counsel—
Immunity—Preliminary advice on matters connected with pending or contemplated litigation. *See* **Counsel** (Negligence—Immunity—Preliminary advice on matters connected with pending or contemplated litigation).
Limitation of action—
Accrual of cause of action. *See* **Limitation of action** (When time begins to run—Actions of tort—Accrual of cause of action—Negligence).
Measure of damages. *See* **Damages** (Measure of damages—Negligence).

NEW TENANCY
Business premises. *See* **Landlord and tenant** (Business premises).

NEW TRIAL
Criminal appeal—
Order for new trial—
Jamaica. *See* **Jamaica** (Criminal law—Appeal—Allowing appeal—New trial).

NEWLY ERECTED BUILDING
Rates. *See* **Rates** (Unoccupied property—Newly erected building).

NEWSPAPER
Libel proceedings—
Innuendo—
Particulars—Identity of readers who have knowledge of special facts which render published words defamatory. *See* **Libel and slander** (Innuendo—Particulars—Duty of plaintiff to plead facts on which he relies for his claim—Identity of persons to whom publication made and who have knowledge of special facts which render published words defamatory—Publication by newspaper).

NOISE
Safety of employee—
Duty of employer to protect employee from foreseeable risk of danger to health—
Need to take competent advice about precautions—Danger to hearing from noise. *See* **Master and servant** (Duty of master—Safety of employees—Common law duty to protect employee from foreseeable risk of danger to health—Need to take competent advice about precautions—Noise).

NOMINAL PLAINTIFF
Security for costs. *See* **Costs** (Security for costs—Nominal plaintiff).

NOMINATION
Elections—
Local government. *See* **Elections** (Local government—Nomination papers).

NON-DISCLOSURE
Material fact—
Maintenance agreement. *See* **Husband and wife** (Maintenance—Agreement—Non-disclosure of material fact).

NOTICE
Arbitration—
Commencement—
Notice requiring appointment of arbitrator. *See* **Arbitration** (Commencement—Notice requiring appointment of arbitrator).
Bankruptcy proceedings—
Substitution of petitioning creditor—
Notice to debtor. *See* **Bankruptcy** (Petition—Substitution of petitioning creditor—Notice to debtor).
Completion notice—
Newly erected building—
Rates. **Rates** (Unoccupied property—Newly erected building—Completion—Completion notice).
Gaming—
Licensing of premises—
Notice advertising making of application for licence. *See* **Gaming** (Licensing of premises—Application for licence—Notice advertising making of application).
Immigration appeal—
Notice of appealable decision. *See* **Immigration** (Appeal—Notice of appealable decision).
Readiness—
Arrived ship under port charterparty—
Commencement of lay days. *See* **Shipping** (Commencement of lay days—Arrived ship under port charterparty—Notice of readiness).
Redundancy payment—
Notice of claim to employer. *See* **Redundancy** (Claim for redundancy payment—Notice of claim to employer).
Tax advantage—
Counteracting. *See* **Income tax** (Tax advantage—Counteracting—Notice).
Time limit—
Resignation—
Company director. *See* **Company** (Director—Resignation—Time limit—Notice).

NOTICE OF APPEAL
Matrimonial order—
Appeal to High Court against order of magistrates—
Form of notice of appeal *See* **Husband and wife** (Matrimonial order—Appeal to High Court against order of magistrates—Procedure—Form of notice of appeal).

NUISANCE
Injunction. *See* **Injunction** (Nuisance).

OATH
Witness in criminal proceedings. *See* **Criminal evidence** (Child—Oath).

OBJECTION
Rent—
Determination of fair rent *See* **Rent restriction** (Rent—Determination of fair rent—Objection)

OBTAINING CREDIT
Undischarged bankrupt *See* **Bankruptcy** (Offences—Undischarged bankrupt obtaining credit)

OBTAINING PROPERTY BY DECEPTION
See **Criminal law** (Obtaining property by deception).

OCCUPATION
Rateable occupation. *See* **Rates** (Rateable occupation).
Single room—
Tenancy or licence—
Protected tenancy. *See* **Rent restriction** (Protected tenancy—Tenancy or licence—Occupant of single room).

OFFICE
Emoluments from office—
Income tax. *See* **Income tax** (Emoluments from office or employment).
Loss of office—
Compensation—
Company Director. *See* **Company** (Director—Compensation for loss of office).
Premises—
Rates—
Surcharge on unused commercial building. *See* **Rates** (Surcharge on unused commercial building).

OFFICER
Trade union—
Dismissal from office—
Natural justice. *See* **Natural justice** (Trade union—Dismissal of official from office).

OMBUDSMAN
Local government—
Maladministration—
Complaint to local ombudsman. *See* **Local government** (Maladministration—Complaint to local commissioner).

ONE—THIRD RULE
Maintenance—
Husband and wife. *See* **Husband and wife** (Maintenance—Amount—One—third rule).

OPEN COURT
Divorce proceedings—
Hearing—
Chambers or open court. *See* **Divorce** (Practice—Hearing—Chambers or open court).
Hearing of bankruptcy petition—
Exclusion of public. *See* **Bankruptcy** (Petition—Hearing—Exclusion of public).

OPPRESSION
Subpoena ad testificandum—
Discretion to refuse issue. *See* **Practice** (Subpoena ad testificandum—Issue—Discretion to refuse issue—Oppression).

ORAL DECISION
Industrial tribunal—
Res judicata. *See* **Industrial tribunal** (Procedure—Decision—Res judicata—Oral decision).

ORDER
Adoption *See* **Adoption** (Order).
Affiliation order *See* **Affiliation** (Affiliation order)
Community service order *See* **Sentence** (Community service order).
Conditional order—
Dismissal of action for want of prosecution. *See* **Practice** (Dismissal of action for want of prosecution—Conditional order)
Consent order made without personal attendance *See* **Practice** (Order—Consent order made without personal attendance)
Costs—
Generally *See* **Costs** (Order for costs)
Deportation—
Alien *See* **Alien** (Deportation—Order)
Injunction *See* **Injunction**

ORDER (cont)
Interim payments order—
Landlord and tenant—
Action for forfeiture of lease. *See* **Landlord and tenant** (Forfeiture of lease—Interim payments order).
Legal aid—
Magistrates' court—
Order for purpose of proceedings before magistrates' court. *See* **Legal aid** (Criminal cases—Order for purpose of proceedings before magistrates' court).
Magistrates' court—
Enforcement—
Access to minor. *See* **Minor** (Custody—Access—Enforcement of order—Magistrates' court).
Specific performance—
Generally. *See* **Specific performance**.
Stay of order—
Access to minor—
Stay of access order pending appeal. *See* **Minor** (Custody—Access—Stay of order—Appeal).

ORIGINATING SUMMONS
Indorsement—
Wardship proceedings—
Removal of ward from jurisdiction without leave—Indorsement on originating summons applying to make child a ward. *See* **Ward of court** (Removal of ward from jurisdiction—Removal without leave of court—Indorsement on originating summons applying to make child a ward).

OVERCHARGING
Hackney carriage—
Fare. *See* **Road traffic** (Hackney carriage—Fare—Overcharging).

OVERCROWDING
Housing. *See* **Housing** (Overcrowding).

OVERTAKING
Vehicle—
Zebra crossing. *See* **Road traffic** (Pedestrian crossing—Zebra crossing—Overtaking).

PARENT
Adoption of child—
Application by parent and step—parent. *See* **Adoption** (Application—Married couple—Parent and step—parent of child).
Affiliation proceedings. *See* **Affiliation**.
Custody of child—
Custody as between parents. *See* **Minor** (Custody—Custody as between parents).
Dispensing with consent to adoption. *See* **Adoption** (Dispensing with consent of parent or guardian).
Income tax—
Child relief. *See* **Income tax** (Child relief).
Maintenance order in favour of child—
Payment to child—
Receipt of custodial parent. *See* **Minor** (Maintenance—Payment to minor—Receipt of custodial parent).
Surname of child—
Consent to change of surname—
Leave of court to change of surname in absence of consent—Divorce of parents. *See* **Minor** (Change of surname—Divorce of parents—Leave of court to change surname in absence of parent's consent).
Ward of court—
Care and control—
Factors to be considered—Welfare of child—Wishes of unimpeachable parent. *See* **Ward of court** (Care and control—Factors to be considered—Welfare of minor first and paramount consideration—Wishes of unimpeachable parent).

PARKING
Place. *See* **Road traffic** (Parking place).
Waiting and loading restrictions. *See* **Road traffic** (Waiting and loading restrictions).

PART PAYMENT
Revival of cause of action. *See* **Limitation of action** (Part payment).

PART PERFORMANCE
Contract. *See* **Contract** (Part performance).

PARTICULARITY
Answer to divorce petition. *See* **Divorce** (Practice—Answer—Particularity).

PARTICULARS
Libel proceedings—
Innuendo. *See* **Libel and slander** (Innuendo—Particulars).

PARTIES
Civil proceedings. *See* **Practice** (Parties).

PARTIES (cont)
Hearing—
Natural justice—
Duty to hear parties—Rent Assessment committee *See* **Natural justice** (Rent assessment committee—Duty to hear parties).
Res judicata—
Privy of party to proceedings *See* **Estoppel** (Res judicata—Privy of party to proceedings)
Specific performance. *See* **Specific performance** (Parties).

PARTNERSHIP
Arbitration—
Clause in partnership agreement. *See* **Arbitration** (Arbitration clause—Partnership agreement).

PASSENGER
Transport—
Value added tax—
Zero-rating. *See* **Value added tax** (Zero-rating—Transport of passengers).

PATENT
Appeal tribunal—
Practice—
Appointment of scientific adviser—Notice that appointment of scientific adviser appropriate—Patents Appeal Tribunal Rules 1972 (SI 1972 No 1940) r 15. **Practice Direction** [1977] **2** 431, PAT.
Practice—
Consent order made without personal attendance—
Minutes of order signed by counsel for all parties—Specimen form of order for directions. **Practice Direction** [1977] **2** 173, ChD.
Royalty or other sum paid in respect of the user of a patent—
Capital gains tax—
Exemption—Disposal of right to annual payments due under personal covenant not secured on property. *See* **Capital gains tax** (Exemptions and reliefs—Disposal of right to annual payments due under personal covenant not secured on property—Annual payment—Royalty or other sum paid in respect of the user of a patent).
Scientific adviser—
Appointment in proceedings before appeal tribunal—
Practice. *See* Appeal tribunal—Practice—Appointment of scientific adviser, *ante*.

PATIENT
Hospital—
Driver—
Breath test. *See* **Road traffic** (Breath test—Hospital patient).
Property—
Mental patient. *See* **Mental health** (Patient's property).

PAYMENT
Income tax—
Annual payment. *See* **Income tax** (Annual payment).
Limitation of action—
Revival of cause of action—
Part payment. *See* **Limitation of action** (Part payment).

PAYMENT INTO COURT
Practice. *See* **Practice** (Payment into court).
Stay of proceedings. *See* **Practice** (Payment into court—Stay of proceedings).

PAYMENT OUT OF COURT
Generally. *See* **Practice** (Payment out of court).

PECUNIARY LOSS
Fatal accident—
Damages. *See* **Fatal accident** (Damages—Pecuniary loss).

PEDESTRIAN CROSSING
See **Road traffic** (Pedestrian crossing).

PENALTY
Witness exposed to risk of penalty—
Privilege against self—incrimination—
Answer to question tending to expose witness or spouse to penalties provided for by law of United Kingdom. *See* **Evidence** (Privilege—Incrimination of witness or spouse—Answer to question tending to expose witness or spouse to penalties provided for by law of United Kingdom).
Belief that evidence would expose witness to proceedings for offence or recovery of penalty. *See* **Evidence** (Privilege—Incrimination of witness or spouse—Belief that evidence would expose witness to proceedings for offence or recovery penalty).

PENDING ACTION
Vacation of entry in land charges register *See* **Land charge** (Vacation of entry in register—Pending action).

PER INCURIAM
Judicial decision—
Court of Appeal. *See* **Precedent** (Court of Appeal—Decision per incuriam).

PERFECTING
Incomplete gift. *See* **Gift** (Incomplete gift—Perfecting gift).

PERFORMANCE BOND
Documentary credit—
Bond given by seller to buyer as security for fulfilment by seller of obligations under contract of sale. *See* **Bank** (Documentary credit—Confirmed credit—Performance bond given by seller to buyer as security for fulfilment by seller of obligations under

PERIODICAL PAYMENTS
Divorce. *See* **Divorce** (Financial provision—Periodical payments).

PERMISSION
Planning permission. *See* **Town and country planning** (Permission for development).

PERSONAL ATTENDANCE
Chambers proceedings—
Classes of business which may be transacted without personal attendance—
Communications by post or telephone. *See* **Practice** (Chambers proceedings—Communications by post or telephone—Classes of business which may be transacted without personal attendance).

PERSONAL INJURIES
Action—
Limitation of time—
Court's power to override time limit. *See* **Limitation of action** (Court's power to override time limit in personal injury or fatal accident claim).
Compensation—
Criminal injuries. *See* **Compensation** (Criminal injuries).
Damages—
Generally. *See* **Damages** (Personal injury).
Interest. *See* **Interest** (Damages—Personal injury).
Medical examination of plaintiff—
Stay of proceedings. *See* **Practice** (Stay of proceedings—Medical examination of plaintiff at defendant's request).

PERSONAL REPRESENTATIVE
Contract—
Power to contract with himself as individual—
Employment—Employee appointed personal representative of employer—Employee continuing in employment on death of employer—Employee taken into employment of himself as personal representative. *See* **Employment** (Continuity—Death of employer—Employee taken into employment of deceased's personal representative—Power as personal representative to contract with himself as individual).

PETITION
Appeal—
House of Lords—
Procedure where petition for leave appears incompetent. *See* **House of Lords** (Leave to appeal—Procedure where petition for leave appears incompetent).
Bankruptcy. *See* **Bankruptcy** (Petition).
Company—
Compulsory winding—up—
Contributory's petition. *See* **Company** (Compulsory winding—up—Petition by contributory).
Creditor's petition. *See* **Company** (Compulsory winding-up—Petition by creditor).

PLACE OF ABODE
Possession of articles for stealing—
Possession when not at place of abode. *See* **Criminal law** (Going equipped for stealing—Possession of articles when not at place of abode).

PLAINTIFF
Costs—
Security for costs—
Company. *See* **Costs** (Security for costs—Company).
Nominal plaintiff. *See* **Costs** (Security for costs—Nominal plaintiff).
Medical examination—
Personal injuries claim—
Stay of proceedings. *See* **Practice** (Stay of proceedings—Medical examination of plaintiff at defendant's request).

PLANNING PERMISSION
See **Town and country planning** (Permission for development).

PLANT
Capital allowances. *See* **Income tax** (Capital allowances—Plant).

PLEADING
Answer—
Divorce petition. *See* **Divorce** (Practice—Answer).
Facts on which party relies for claim or defence—
Duty to plead—
Libel proceedings—Innuendo—Particulars. *See* **Libel and slander** (Innuendo—Particulars—Duty of plaintiff to plead facts on which he relies for his claim).

PLEADING (cont)
Foreign currency—
Pleading claims in foreign currency. *See* **Judgment** (Payment of sum of money—Foreign currency—Pleading claims in foreign currency).
Particulars—
Libel—
Innuendo. *See* **Libel and slander** (Innuendo—Particulars).
Striking out—
Estoppel per rem judicatam—
Issue determined in earlier action against different defendant—Failure of plaintiff to add defendant in second action as defendant in first action—No privity of interest between defendants in first and second action—Issue raised in second action determined against plaintiff in first action—Whether defendant in second action should have been added as defendant in first action by plaintiff—Whether pleadings in second action should be struck out—RSC O+d 15, r 6(2)(*b*)(*ii*). **Gleeson v J Wippell & Co Ltd** [1977] **3** 54, ChD.

POLICE
Admissions and confessions to police—
Admissibility in criminal proceedings. *See* **Criminal evidence** (Admissions and confessions—Answers and statements to police).
Discipline—
Procedure at disciplinary hearing—
Legal representation—Case against accused to be presented by member of police force—Accused given right to conduct defence in person or by member of police force—Whether accused entitled to be legally represented—Whether chief constable having discretion to allow accused legal representation—Police (Discipline) Regulations 1965 (SI 1965 No 543), reg 8(3)(6). **Maynard v Osmond** [1977] **1** 64, QBD.
Regulations—
Ultra vires—Unreasonableness—Power of Secretary of State to make regulations for maintenance of discipline—Regulations denying legal representation at disciplinary hearing to junior officers—Legal representation allowed in proceedings against senior officers—Whether regulations denying legal representation ultra vires the Secretary of State—Police Act 1964, s 33(2)—Police (Discipline) Regulations 1965 (SI 1965 No 543), reg 8(6). **Maynard v Osmond** [1977] **1** 64, QBD.
Industrial injury—
Accident arising out of and in course of employment—
Recreational activities—Police officer expected to take part in activities but under no duty to do so—Constable injured in football match. *See* **Industrial injury** (Disablement benefit—Accident arising out of and in course of employment—Recreational activities—Employee expected to take part in activities but under no duty to do so—Police constable injured in football match).
Search warrant—
Extent of police powers under warrant—
Power to retain documents other than those specified which are relevant to criminal proceedings—Police obtaining warrant to search solicitor's premises for forged documents belonging to client—Solicitor giving police permission to take all client's files for searching and sorting—Client already charged with conspiracy—Police on sorting documents finding evidence that they believed was material to conspiracy charge—Whether police entitled to retain documents relating to conspiracy charge. **Truman (Frank) Export Ltd v Metropolitan Police Comr** [1977] **3** 431, QBD.
Forged documents or instruments—
Extent of police powers under warrant—Seizure of genuine document—Warrant authorising police to seize any forged documents—Documents seized including one genuine document—Police believing genuine document to be material evidence that other seized documents forgeries—Whether police entitled to seize and retain genuine document—Forgery Act 1913, s 16(1). **Truman (Frank) Export Ltd v Metropolitan Police Comr** [1977] **3** 431, QBD.

PORT
Charterparty—
Arrived ship—
Commencement of lay days. *See* **Shipping** (Commencement of lay days—Arrived ship under port charterparty).

POSSESSION
Adverse—
Land—
Limitation of action. *See* **Limitation of action** (Land—Adverse possession).
Firearm—
Generally. *See* **Firearms** (Possession).
Hereditament—
Owner having legal possession—
Rateable occupation. *See* **Rates** (Rateable occupation—Owner having legal possession).
Land—
Summary proceedings to recover possession. *See* **Land** (Summary proceedings for possession).
Recovery—
Protected tenancy. *See* **Rent restriction** (Possession).

POST
Chambers proceedings—
Communications by post or telephone. *See* **Practice** (Chambers proceedings—Communications by post or telephone).

POWER
Implied release—
Settlement—
Power to revoke settlement—Release of power—Subsequent inconsistent dealing—Settlor having life interest—Trustees empowered to pay or apply trust property for settlor's benefit at settlor's request—Deed of release assigning settlor's life interest in property to trustees—Trustees to hold released property on trusts declared by the trust instrument as if the settlor were dead—Whether settlor having effectively extinguished trustees' power to make provision for his benefit—Income Tax Act 1952, s 404(2). **Inland Revenue Commissioners v Cookson** [1977] **2** 331, CA.

POWER OF SALE
Trustee in bankruptcy—
Power to sell property of bankrupt. *See* **Bankruptcy** (Trustee in bankruptcy—Power to sell property of bankrupt).

PRACTICE
Adjournment of summons—
Chancery Division.
See Summons—Chancery Division—Adjournment of summons, *post*.
Adoption. *See* **Adoption** (Practice).
Affidavit—
Filing. *See* **Affidavit** (Filing).
Answer—
Divorce petition, *See* **Divorce** (Practice—Answer).
Appeal—
Certification of trade union as independent—
Procedure on appeal. *See* **Trade union** (Certification as independent trade union—Appeal—Procedure on appeal).
Bankruptcy. *See* **Bankruptcy** (Practice).
Chambers proceedings—
Communications by post or telephone—
Chancery Division—Classes of business which may be transacted without personal attendance. **Practice Direction** [1977] **2** 173, ChD.
Master's powers—
Monetary limit—Limit for exercise of powers increased to £15, 000 in certain cases—New limit applying to appointment of a trustee where a trustee being superseded without his consent, to approval of compromise on behalf of person under disability and to payment or transfer of funds out of court—Application of limit to payment or transfer of funds out of court. **Practice Directions** [1977] **3** 121, ChD.
Masters' summonses—
Queen's Bench Division—Return dates—Expedition—New arrangements. **Practice Direction** [1977] **3** 943, QBD.
Chancery Division—
Adjournment of motions. *See* Motion—Adjournment, *post*.
Setting down action. *See* Trial—Setting down action—Chancery Division, *post*.
Summons for directions. *See* Summons for directions—Chancery Division, *post*.
Transfer of cause or matter from one group of judges to another—
Consent order without personal attendance—Letter explaining reasons for transfer. **Practice Direction** [1977] **2** 173, ChD.
Commercial Court—
Sittings in Long Vacation—
Hearing of commercial actions and summonses—Not necessary to establish that matter is 'Long Vacation business' but preference to be given to urgent matters, Special Cases and short cases—Applications to fix dates for hearings in vacation—RSC ord 64, r 4(1). **Practice Direction** [1977] **1** 912, Commercial Ct.
Companies Court—
Applications in Long Vacation—
Applications for schemes of arrangement or reconstruction, for reduction of share capital or in respect of capital redemption reserve funds or share premium accounts—Applications restricted to cases of urgent need—Applications to sanction a scheme or for confirmation of reduction of capital, capital redemption reserve fund or share premium account—Circumstances in which applications will be heard—Applications to registrar for orders convening meetings to consider schemes and for directions on reduction applications—Companies Act 1948, ss 56, 58, 67, 206. **Practice Direction** [1977] **1** 688, Companies Ct.
Costs—
Generally. *See* **Costs**.
Criminal proceedings—
Trial. *See* **Criminal law** (Trial).
Decree absolute of divorce—
Expediting. *See* **Divorce** (Decree absolute—Expediting).
Dismissal of action for want of prosecution—
Conditional order—
Extension of time limit for taking steps prescribed by order—Discretion of judge to extend time limit—Factors relevant to exercise of discretion—Delay—Prejudice to defendant—Jurisdiction of judge to refuse to extend time limit on ground of delay even though no likelihood of prejudice to defendant if extension granted **Pryer v Smith** [1977] **1** 218, CA.

PRACTICE (cont)
Dismissal of action for want of prosecution (cont)—
Conditional order (cont)—
Jurisdiction to make order—Order dismissing action in event of breach of time limits prescribed by order for taking further steps in action—Order made on grounds of inexcusable and inordinate delay—No evidence of likelihood of prejudice to defendant as a result of delay—Whether judge having jurisdiction to make conditional order. **Pryer v Smith** [1977] **1** 218, CA.
Delay—
Prejudice to defendant—Delay before issue of writ—Delay after issue of writ—Action brought within limitation period—Delay in bringing action causing prejudice to defendant—Delay after issue of writ exceeding limits prescribed by rules of court—Delay after issue of writ inordinate and inexcusable—Whether necessary to show that prejudice to defendant significantly increased by delay after issue of writ. **Birkett v James** [1977] **2** 801, HL.
Discretion—
Inordinate delay and prejudice to defendant established—Refusal to dismiss action—Relevant considerations—Trial of action imminent—Limitation period unexpired—Open to plaintiff to bring fresh action in respect of claim if first action dismissed. **Dutton v Spink and Beeching (Sales) Ltd** [1977] **1** 287, CA.
Inordinate delay without excuse—
Delay before issue of writ—Delay after issue of writ—Action brought within limitation period—Whether court may have regard to delay before issue of writ in determining whether delay after issue of writ inordinate and inexcusable. **Birkett v James** [1977] **2** 801, HL.
Limitation period not expired—Likelihood of plaintiff bringing second action if first action dismissed—Court having no power to prevent plaintiff bringing second action—Whether court should refuse to dismiss pending action when likely that plaintiff would in that event bring fresh action. **Birkett v James** [1977] **2** 801, HL.
Remedy against plaintiff's solicitors—
Delay caused by negligence of plaintiff's solicitors—Whether fact that plaintiff may have remedy against solicitors relevant consideration in deciding whether to dismiss action for want of prosecution. **Birkett v James** [1977] **2** 801, HL.
Divorce. *See* **Divorce** (Practice).
Ex parte injunction—
Discharge. *See* **Injunction** (Ex parte injunction—Discharge).
Family Division—
Solicitor acting in matrimonial proceedings for petitioner—
Notice of acting—Notice of change—Notice of acting required to be filed where solicitor acting for limited purpose—Notice of change required to be filed where solicitor instructed generally in proceedings—Consequence of failure to file notice. **Practice Direction** [1977] **1** 844, FamD.
Filing—
Affidavit— *See* **Affidavit** (Filing).
Funds in court—
Funds exceeding £7,500—
Holding by Public Trustee out of court—Direction by court—Minors' funds—Powers of court extended to district registrars—Procedure—Fees. **Practice Direction** [1977] **3** 351, QBD.
Industrial tribunal—
Procedure. *See* **Industrial tribunal** (Procedure).
Interim payments order—
Landlord and tenant—
Action for forfeiture of lease. *See* **Landlord and tenant** (Forfeiture of lease—Interim payments order).
Long vacation—
Hearing during vacation—
Commercial Court. *See* Commercial Court—Sitting in long vacation, *ante*.
Masters' powers—
Chambers proceedings. *See* Chambers proceedings—Masters' powers, *ante*.
Masters' summonses—
Chambers proceedings. *See* Chambers proceedings—Masters' summonses, *ante*.
Matrimonial causes—
Solicitor acting for petitioner. *See* **Practice** (Family Division—Solicitor acting in matrimonial proceedings for petitioner).
Motion—
Adjournment—
Chancery Division—Agreed adjournment—Successive adjournments—Optional procedure. **Practice Direction** [1977] **2** 540 ChD.
Order—
Consent order made without personal attendance—
Chancery Division—Interlocutory orders—Final orders concluding, staying or discontinuing proceedings where all parties sui juris—Exceptions to procedure—Classes of applications in which personal attendance normally required. **Practice Direction** [1977] **2** 173, ChD
Drawing-up—
Interlocutory order made without personal attendance—Lodging of engrossments of proposed order. **Practice Direction** [1977] **2** 173, ChD
Parties—
Adding defendant—
Failure to add defendant—Res judicata—Issue determined in earlier proceedings—Failure to add defendant as defendant in earlier proceedings—Striking out pleading. *See* **Pleading** (Striking out—Estoppel per rem judicatam—Issue determined in earlier action against different defendant—Failure of plaintiff to add defendant in second action as defendant in first action).

PRACTICE (cont)
Parties (cont)—
Discharge of ex parte injunction—
Application by one defendant. *See* **Injunction** (Ex parte injunction—Discharge—Application by one defendant).
Local authority—
Assertion and protection of rights of public—Local authority instituting proceedings for injunction to prevent use of premises for Sunday market—Whether local authority bound to sue on relation of Attorney-General—Whether authority entitled to sue in own name—Local Government Act 1972, s 222(1)(*a*). **Solihull Metropolitan Borough Council v Maxfern Ltd** [1977] **2** 177, ChD.
Res judicata—
Privy of party to proceedings *See* **Estoppel** (Res judicata—Privy of party to proceedings).
Specific performance. *See* **Specific performance** (Parties).
Patent actions. *See* **Patent** (Practice).
Patent Appeal Tribunal. *See* **Patent** (Appeal tribunal—Practice).
Payment into court—
Stay of proceedings—
Removal of stay—Stay effected by payment into court of whole amount of claim—Jurisdiction of court to remove stay in proper case—County court action—Action by plaintiff against defendant to recover uninsured loss arising from road accident—Plaintiff having been paid by his insurers for his insured loss but no claim yet brought by him to recover amount of insured loss from defendant—Payment in by defendant's insurers of full amount of claim for uninsured loss—Payment in an attempt by defendant's insurers to bar claim by plaintiff for amount of insured loss—Whether court having jurisdiction to remove a stay effected by payment in—Whether proper case for exercise of discretion to remove stay—CCR Ord 11, r 7(2). **Lambert v Mainland Market Deliveries Ltd** [1977] **2** 826, CA.
Withdrawal of payment in—
Discretion of court to allow withdrawal—Circumstances in which discretion exercisable—Change in circumstances—Defendant company paying in sum representing difference between plaintiff's claim and counterclaim—Receiver appointed for defendant company—Defendants' counterclaim amended to increase amount of defendants' claim—Payment in likely in event of defendants' insolvency to put plaintiff in position of secured creditor if plaintiff successful—Whether change in circumstances justifying withdrawal of payment in. RSC Ord 22, r 1(3). **Peal Furniture Co Ltd v Adrian Share (Interiors) Ltd** [1977] **2** 211, CA.
Payment out of court—
Interest—
Payment to plaintiff in satisfaction of judgment debt—Judgment including order for payment out in part satisfaction of judgment debt—Interest on money in court—Whether order for payment out 'satisfied' judgment debt pro tanto—Whether judgment debt, pro tanto, ceased to exist on making order for payment out—Whether plaintiff entitled to interest on money in court from date of pronouncement of judgment until receipt of money paid out—Judgments Act 1838, s 17. **Parsons v Mather & Platt Ltd** [1977] **2** 715, QBD.
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Injunction ordering defendant to do or refrain from doing anything within jurisdiction—Injunction not part of substantive relief to which plaintiff's cause of action entitled him—Need to establish that thing sought to be restrained invasion of right belonging to plaintiff in England—Plaintiff applying for leave to serve writ claiming damages and injunction restraining defendant doing something within jurisdiction—Claim for damages not within any of permissible grounds for grant of leave—Claim for injunction ancillary to claim for damages—Claim for injunction restraining defendant from disposing of assets within jurisdiction or removing them out of jurisdiction—Claim for interlocutory injunction—Whether claim for injunction sufficient to found jurisdiction—RSC Ord 11, r 1(1)(*i*). **Siskina, The** [1977] **3** 803, CA & HL.
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Inferred choice of law—Intention of parties—Contract of insurance—Contract concluded in America—Premiums and claims payable there—Contract part of wider cover—Scheme of cover that all policies should be uniform and be governed by English law—'Follow London' clause in contract—Contract also incorporating New York Suable Clause—First sentence of that clause inapplicable to contract—Effect to be given to rest of clause by carrying out parties' intention—Inference of intention that contract should be governed by English law—Service out of jurisdiction of writ by assured against American insurers—RSC Ord 11, r 1(1)(*f*)(iii). **Armadora Occidental SA v Horace Mann Insurance Co** [1977] **1** 347, QBD.
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Reasonable justification for bringing action in English court—What amounts to reasonable justification—Belief of plaintiff that proceedings would be quicker, damages higher and that greater proportion of costs would be recovered in English proceedings—Industrial accident in Scotland—Plaintiff domiciled in Scotland—Defendant company having headquarters in London—Evidence adduced by defendant that plaintiff would suffer none of supposed disadvantages by bringing action in Scotland—Whether plaintiff's belief that he would do better in English proceedings reasonable justification for bringing action in England. **MacShannon v Rockware Glass Ltd** [1977] **2** 449, CA.
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Application to register premises as common lodging-house—Refusal of application—Appeal—Local authority not complying with statutory duty in refusing application—Whether order of mandamus should be issued—Whether remedy by way of appeal to magistrates—Public Health Act 1936, ss 238(1), 239. **R v London Borough of Hounslow, ex parte Pizzey** [1977] **1** 305, QBD.

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Levying distress—Seizure of goods necessary—Bailiff attending premises to make levy—Rates paid before bailiff started on process of selecting goods for levy—Bailiff neither stating that goods were seized nor acting in manner amounting to taking possession of goods—Whether levying of a distress—Whether cost of levying distress recoverable by rating authority—Distress for Rates Order 1972 (SI 1972 No 820), para 3(1)(*ii*). **Brintons Ltd v Wyre Forest District Council** [1977] **1** 836, QBD.
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Ratepayer in same rating area as hereditament to which proposal relates—Hereditament underassessed—Ratepayer correctly assessed applying to have rateable value increased—Ratepayer unable to show that he had suffered financial detriment in consequence of underassessment—Whether ratepayer a 'person...who is aggrieved' by value ascribed to hereditament—General Rate Act 1967, s 69(1). **Arsenal Football Club Ltd v Ende** [1977] **1** 86, CA.
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Presumption of occupation—Rebuttal—Occupation by another—Exclusion of owner from hereditament by trespassers in occupation—Former employees of company in liquidation taking over possession and control of factory—Liquidator prevented from gaining access to factory—Liquidator coming to arrangement with employees for completion of unfinished work in factory and for assistance in sale of factory—Liquidator choosing not to enforce legal right to possession of factory in order to avoid confrontation—Whether liquidator in occupation of factory—General Rate Act 1967, s 16. **Re Briant Colour Printing Co Ltd (in liquidation)** [1977] **3** 968, CA.
Surcharge on unused commercial building—
Unoccupied property—
Liability for surcharge when no rates payable in respect of building—No resolution by rating authority that unoccupied property in area should be rated—Whether surcharge payable—Whether passing of resolution to rate unoccupied property a precondition of liability to surcharge—General Rate Act 1967, s 17A(1)(4) (added by the Local Government Act 1974, s 16). **Dixon v Harding** [1977] **2** 227, QBD.
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Completion—Completion notice—Completion notice relating to whole of building—Hereditament entered in valuation list consisting of part only of building—Unoccupied property rate charged in respect of part only—Lessees of tower block sub-letting top 14 floors to ratepayers—Ratepayers leaving those floors unoccupied for nine months—Valuation list in respect of tower block containing only the hereditament comprising the 14 floors—Whether necessary that hereditament described in completion notice and hereditament in valuation list should be identical—Whether ratepayers liable for unoccupied property rate—General Rate Act 1967, Sch 1, paras 1, 8(1). **London Borough of Camden v Post Office** [1977] **2** 795, CA.
Surcharge on unused commercial building. *See* Surcharge on unused commercial building—Unoccupied property, *ante*
Unused commercial building—
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Handling stolen goods. *See* **Criminal law** (Handling stolen goods).

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Employment for which normal working hours—
Amount of week's pay—Average hourly rate of remuneration—Remuneration varying with amount of work done—Incentive or productivity bonus built into wage structure—Bonus over and above basic hourly rate of remuneration paid for extra work done in normal working hours—Whether bonus part of average hourly rate of remuneration—Whether bonus payment for overtime—Distinction between employee whose remuneration varies with amount of work done and 'time' worker when calculating redundancy payment—Redundancy Payments Act 1965, Sch 1, para 5(1)—Contracts of Employment Act 1972, Sch 2, para 2(2)(3). **Ogden v Ardphalt Asphalt Ltd** [1977] **1** 267, EAT.
Claim for redundancy payment—
Notice of claim to employer—
Time at which notice to be given—Notice required to be given before the end of six months 'beginning with' date on which termination of employment takes effect—Notice of claim given by employee before dismissal took effect—Whether notice of claim could be given before commencement of prescribed period—Redundancy Payments Act 1965, s 21(*b*). **Watts v Rubery Owen Conveyancer Ltd** [1977] **2** 1, EAT.
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Exclusion from right to redundancy payment—
Avoidance of exclusion—
Employee given notice to terminate contract—Employer entitled to dismiss employee without notice by reason of his taking part in strike—Employer dismissing him for that reason—Dismissal by reason of redundancy of employee taking part in strike—Employee not dismissed for taking part in strike—Whether exclusion from right to redundancy payment avoided—Redundancy Payments Act 1965, ss 2(2), 10(1) **Simmons v Hoover Ltd** [1977] **1** 775, EAT.
Conduct entitling employer to terminate contract of employment without notice—
Participation in strike—Repudiation of contract of employment—Whether participation in strike constituting breach of contract of employment—Whether breach of so fundamental kind as to entitle employer to terminate contract without notice—Redundancy Payments Act 1965, s 2(2). **Simmons v Hoover Ltd** [1977] **1** 775, EAT.
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Fair rent—
Determination of. *See* **Rent restriction** (Rent—Determination of fair rent).
Income tax—
Expenditure to secure modification of rent obligation in lease—
Deduction in computing profits—Capital or revenue expenditure. *See* **Income tax** (Deduction in computing profits—Capital or revenue expenditure—Payment to secure improvement in asset—Payment to secure modification of rent obligation in lease).
Limitation. *See* **Landlord and tenant** (Rent—Limitation).
Protected tenancy—
Amount of rent attributable to attendance forming substantial part of whole rent—
Exclusion of tenancy from statatory protection. *See* **Rent restriction** (Protected tenancy—Excluded tenancies—Amount of rent attributable to attendance forming substantial part of whole rent).
Review. *See* **Landlord and tenant** (Rent—review).
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Real property—
Occupation of whole property by one of tenants in common. *See* **Tenants in common** (Real property—Occupation of whole property by one of tenants in common—Rent).

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Natural justice. *See* **Natural justice** (Rent assessment committee).

RENT RESTRICTION
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Limit on increase of rent *See* **Landlord and tenant** (Rent—Limitation—Prohibition on increase in rate of rent—Business premises)
Possession—
House required by landlord for own use—
House required for occupation as a residence—Required—Landlord having another residence and the right to use daughter's flat—Whether 'required' meant reasonably required—Whether sufficient for landlord to prove that he bona fide wanted, and genuinely intended, to occupy house as his residence—Rent Act 1968, Sch 3, Part II, Case 10, para (*c*)(as amended by the Rent Act 1974, Sch 1). **Kennealy v Dunne** [1977] **2** 16, CA

RENT RESTRICTION (cont)
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Excluded tenancies—
Amount of rent attributable to attendance forming substantial part of whole rent—Substantial part of whole rent—Bedsittingroom let to tenant at rent of £7 per week—Landlord arranging for housekeeper to clean room daily and change linen weekly—Whether amount of rent attributable to attendance forming 'substantial part of the whole rent'—Rent Act 1968, s 2(1)(3)(as amended by the Rent Act 1974, ss 1(4)(a), 16(2), Sch 4, Part I). **Marchant v Charters** [1977] **3** 918, CA.
Tenancy or licence—
Occupant of single room—Test whether occupant tenant or licensee—Intention—Nature and quality of occupation—Need to determine whether intention that occupier should have stake in room or whether he only had permission to occupy—Rent Act 1968, s 1. **Marchant v Charters** [1977] **3** 918, CA.
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Determination of fair rent—
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Objection—Reference to rent assessment committee—Withdrawal of objection—Withdrawal after reference to committee and before hearing—Right of objector to withdraw objection after reference to committee—Rent Act 1968, Sch 6, para 6. **Hanson v Church Comrs for England** [1977] **3** 404, CA.
Rent tribunal. *See* **Rent tribunal**.

RENT TRIBUNAL
Preliminary issue as to jurisdiction—
County court's jurisdiction to determine issue—
Question as to application of statute to a contract of tenancy—Issue as to application of statute raised before tribunal—Application by tenant for determination of fair rent—Landlord contending statute had no application to contract of tenancy—Whether tribunal having jurisdiction to determine issue before considering tenant's application on its merits—Whether tribunal bound to refer issue for determination by county court—Rent Act 1968, s 105(1). **R v Croydon and South West London Rent Tribunal, ex parte Ryzewska** [1977] **1** 312, QBD.

REPAIR
Landlord and tenant—
Implied covenant. *See* **Landlord and tenant** (Implied covenant to repair).

REPRESENTATION
Estoppel by representation. *See* **Estoppel** (Representation).

RES JUDICATA
Estoppel—
Generally. *See* **Estoppel** (Res judicata).
Industrial tribunal—
Decision of tribunal. *See* **Industrial tribunal** (Procedure—Decision—Res judicata).

RESIDENCE
Capital gains tax—
Exemption. *See* **Capital gains tax** (Exemptions and reliefs—Private residence).
Tax avoidance—
Transfer of assets abroad—
Income payable to persons resident out of United Kingdom *See* **Income tax** (Avoidance—Transfer of assets abroad—Income payable to persons resident or domiciled out of United Kingdom).

RESIDUARY ESTATE
Estate duty—
Property passing on death—
Property comprised in a settlement—Testator's disposition of residuary estate declared void—Residuary estate held on statutory trusts *See* **Estate duty** (Property passing on death—Property comprised in a settlement—Settlement—More than one instrument—Will and statute—Testator's disposition of residuary estate declared void—Residuary estate held on statutory trusts for testator's next—of—kin).

RESIGNATION
Company director. *See* **Company** (Director—Resignation).

RESOLUTION
Company. *See* **Company** (Resolution).

RESTITUTION
Defence—
Estoppel by representation—
Prejudice suffered by party misled by representation making it inequitable to require him to make restitution *See* **Estoppel** (Representation—Prejudice suffered by party misled by representation—Prejudice making it inequitable to require party misled to make restitution).

RESTRAINT OF TRADE BY AGREEMENT
Supplier and buyer—
Solus agreement—
Enforcement of agreement—Injunction to restrain breach of tie—Unjust and inequitable to enforce tie—Supplier operating scheme causing hardship to buyer—Scheme subsidising other buyers tied to supplier—Defendant buyer excluded from scheme—Exclusion causing hardship—Injunction restraining defendant from breach of tie refused whilst scheme operating. **Shell UK Ltd v Lostock Garage Ltd** [1977] **1** 481, CA.
Reasonableness of tie—Time at which reasonableness to be tested—Tie reasonable when contract made—Afterwards tie found to be operating unreasonably—Garage owner 'tied' to Shell for supplies of petrol—Subsequently Shell operating scheme to subsidise neighbouring Shell garages—Garage owner excluded from scheme—Hardship thereby suffered—Whether tie unenforceable whilst scheme operating. **Shell UK Ltd v Lostock Garage Ltd** [1977] **1** 481, CA.

RESTRICTIVE TRADE PRACTICES
Registration of agreements—
Agreement relating to services—
Agreement—Trading nexus between parties—Leases—Lease of business premises—Covenants in underleases containing restrictions on use, transfer and assignment of premises—Covenant to pay service charge to lessor—Lessor providing services of maintenance and cleaning for lessees—No trading nexus between lessor and lessees—Whether leases 'agreements'—Whether registrable agreements—Fair Trading Act 1973, s 107(1)—Restrictive Trade Practices (Services) Order 1976 (SI 1976 No 98), art 3(1) **Ravenseft Properties Ltd v Director General of Fair Trading** [1977] **1** 47, QBD.
Restrictions accepted by parties to agreement—
Restrictions—
Covenants in lease—Covenants negative in form—Covenants not requiring lessee to give up any right or freedom which he had before going into possession of premises—Whether covenants containing 'restrictions'—Fair Trading Act 1973, s 107(1)—Restrictive Trade Practices (Services) Order 1976 (SI 1976 No 98), art 3(1) **Ravenseft Properties Ltd v Director General of Fair Trading** [1977] **1** 47, QBD.

RETIREMENT
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Relief. *See* **Capital gains tax** (Exemptions and reliefs—Disposal of business on retirement).

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RETURN DATE
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Chambers proceedings—
Queen's Bench Division. *See* **Practice** (Chambers proceedings—Masters' summonses—Queen's Bench Division—Return dates).

RETURNING OFFICER
Local government election—
Rejection of nomination papers—
Particulars not as required by law—Names of candidates. *See* **Elections** (Local government—Nomination papers—Names of candidates—Particulars not as required by law—Rejection of papers by returning officer).

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Generally. *See* **Estate duty**.
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Generally. *See* **Customs and excise**
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Power to revoke settlement—
Implied release of power. *See* **Power** (Implied release—Settlement—Power to revoke settlement—Release of power).

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Assignment—
Trustee in bankruptcy—
Power to assign right of action to bankrupt. *See* **Bankruptcy** (Trustee in bankruptcy—Power to assign right of action to bankrupt).

RIGHT OF COMMON
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Carriage of animals by road. *See* **Animals** (Carriage by sea, air, road or rail).

Development—

Beginning of development before expiry of planning permission—

Specified operation comprised in the development—Operation in the course of constructing a road. *See* **Town and country planning** (Duration of planning permission—Beginning of development before expiry date—Specified operation comprised in the development—Operation in the course of constructing a road).

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Accident—

Damage due to accident arising out of presence of vehicle on road—

Criminal proceedings—Compensation. *See* **Sentence** (Compensation—Damage due to accident arising out of presence of vehicle on road).

Breath test—

Requirement to take test—

Hospital patient—Person at a hospital as a patient—At a hospital—Person attending hospital for treatment as out-patient—Request for breath test made in hospital car park after day's treatment finished—Whether suspect 'at a hospital'—Road Traffic Act 1972, s 8(2). **Attorney-General's Reference (No 1 of 1976)** [1977] **3** 557, CA.

Hospital patient—Person at hospital as a patient—Patient—Person at hospital for purpose of being treated—Person attending hospital for treatment as out-patient—Request for breath test made at hospital after day's treatment completed—Whether person at hospital 'as a patient'—Road Traffic Act 1972, s 8(2). **Attorney-General's Reference (No 1 of 1976)** [1977] **3** 557, CA

Driving with blood-alcohol proportion above prescribed limit—

Breath test. *See* Breath test, *ante*.

Hackney carriage—

Fare—

Agreement to pay more than legal fare—Booking fee—Telephone booking service—Booking fee charged for use of telephone service—Hirer told of fee during negotiations—Fee collected by taxi driver at same time as payment for journey—Payment for journey charged at rate prescribed by byelaws—Whether agreement to pay booking fee an 'agreement for payment of more than the fare allowed' by byelaws—Town Police Clauses Act 1847, s 55. **House v Reynolds** [1977] **1** 689, QBD.

Overcharging—Taking as a fare a greater sum than that authorised by byelaws—Booking fee—Telephone booking service—Booking fee charged for use of telephone service—Hirer told of fee during negotiations—Fee collected by taxi driver at same time as payment for journey—Payment for journey charged at rate prescribed by byelaws—Whether booking fee part of fare—Whether driver guilty of 'taking as a fare' a greater sum than that authorised by byelaws—Town Police Clauses Act 1847, s 58. **House v Reynolds** [1977] **1** 689, QBD.

Hospital patient—

Breath test. *See* Breath test—Hospital patient, *ante*.

Insurance—

Motor insurance—

Generally. *See* **Motor insurance**.

Loading of vehicles—

Restrictions on waiting and loading. *See* Waiting and loading restrictions, *post*.

Motor vehicle—

Damage due to accident arising out of presence of vehicle on road—

Criminal proceedings—Compensation. *See* **Sentence** (Compensation—Damage due to accident arising out of presence of vehicle on road).

Insurance. *See* **Motor insurance**.

Leaving vehicle in parking place otherwise than as authorised. *See* Parking place—Leaving vehicle otherwise than as authorised, *post*.

Overtaking—

Zebra crossing. *See* Pedestrian crossing—Zebra crossing—Overtaking, *post*.

Parking—

Waiting and loading restrictions. *See* Waiting and loading restrictions, *post*.

Parking place—

Leaving vehicle otherwise than as authorised—

Waiting in parking place for permitted purpose—Use of parking place suspended—Effect of suspension—Parking place provided with parking bays controlled by meters—Suspension of use of bay—Vehicle left in bay suspended from use—Vehicle being used to deliver goods at premises adjacent to bay—Whether leaving vehicle in bay unauthorised—Whether bay remained a 'parking place'—Whether permissible to 'wait' in bay although use of bay suspended—Road Traffic Regulation Act 1967, s 42(1)(*a*)—Parking Places and Restriction of Waiting and Loading (Luton)(No 1) Order 1964 (SI 1964 No 1753), arts 4, 23(1), 26(1)(*i*). **Wilson v Arnott** [1977] **2** 5, QBD.

Pedestrian crossing—

Zebra crossing—

Overtaking—Prohibition—Stationary vehicle stopped for purpose of complying with regulations—Regulations requiring vehicle driver to give precedence to pedestrian on carriageway within limits of controlled zebra crossing—Pedestrians for whom stationary vehicle stopped having left crossing at time of overtaking—Whether offence committed by overtaking stationary vehicle—Whether a stationary vehicle which had initially stopped to give precedence to pedestrians and had not yet moved off, a vehicle which 'is stopped for the purpose of complying with' regulation giving precedence to pedestrians—'Zebra' Pedestrian Crossings Regulations 1971 (SI 1971 No 1524), reg 10(*b*). **Connor v Paterson** [1977] **3** 516, QBD.

ROAD TRAFFIC (cont)
Suspension of use of parking place—
Leaving vehicle otherwise than as authorised—
Waiting in parking place for permitted purpose. *See* Parking place—Leaving vehicle otherwise than as authorised—Waiting in parking place for permitted purpose—Use of parking place suspended, *ante*.
Taking vehicle without authority—
Compensation order—
Damage due to accident arising out of presence of vehicle on road—Limitation of compensation to damage to property recovered. *See* **Sentence** (Compensation—Damage due to accident arising out of presence of vehicle on road—Limitation of compensation to damage to property recovered in case of offence under Theft Act 1968—Taking motor vehicle without consent).
Waiting and loading restrictions—
Leaving vehicle in parking place otherwise than as authorised. *See* Parking place—Leaving vehicle otherwise than as authorised—Waiting in parking place for permitted purpose, *ante*.
Waiting prohibited subject to exemption for loading and unloading—
Prohibition of waiting in restricted road—Distinction between vehicle delivering or collecting goods and driver using vehicle to deliver or collect goods himself—Need to show that use of vehicle reasonably necessary because goods cannot conveniently be carried by hand—Goods including cash in case of bank—Driver parking car in restricted road and collecting cash from bank—Driver placing cash in pocket and returning to car—Whether car parked 'for purpose of....collecting' cash—Whether car exempt from prohibition on waiting—Parking Places and Controlled Parking Zone (Manchester) Order 1971, arts 27, 29(1). **Richards v McKnight** [1977] **3** 625, QBD
Zebra crossing. *See* Pedestrian crossing—Zebra crossing, *ante*.

ROYALTY
Capital gains tax—
Exemption—
Disposal of right to annual payments due under personal covenant not secured on property—Royalty or other sum paid in respect of user of a patent. *See* **Capital gains tax** (Exemptions and reliefs—Disposal of right to annual payments due under personal covenant not secured on porperty—Annual payment—Royalty or other sum paid in respect of the user of a patent).

SAFE SYSTEM OF WORKING
Safe place of work—
Common law duty to protect employee from foreseeable risk of danger to health. *See* **Master and servant** (Duty of master—Safety of employees—Common law duty to protect employee from foreseeable risk of danger to health).

SAFETY
Employees. *See* **Master and servant** (Duty of master—Safety of employees).

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Divorce—
Sale under trust for sale. *See* **Husband and wife** (Matrimonial home—Sale under trust for sale—Divorce).
Ship—
Admiralty proceedings—
Appraisement and sale. *See* **Admiralty** (Appraisement and sale).
Trust for sale. *See* **Trust and trustee** (Trust for sale).
Trustee in bankruptcy—
Power to sell property of bankrupt. *See* **Bankruptcy** (Trustee in bankruptcy—Power to sell property of bankrupt).

SALE OF GOODS
Performance bond—
Documentary credit—
Bond given by seller to buyer as security for fulfilment by seller of obligations under contract of sale. *See* **Bank** (Documentary credit—Confirmed credit—Performance bond given by seller to buyer as security for fulfilment by seller of obligations under contract of sale).
Theft—
Identification of property stolen—
Charge of stealing part only of certain items—Proof that whole of each item stolen. *See* **Criminal law** (Theft—Property belonging to another—Identification of property stolen—Charge of stealing part only of certain items—Proof that whole of each item stolen—Sale of goods).

SALE OF LAND
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Breach—
Damages—Generally. *See* Damages for breach of contract, *post*.
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Fraudulent conveyance. *See* **Fraudulent conveyance**
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Damages in substitution for specific performance—
Generally. *See* **Specific performance** (Damages in substitution for specific performance)
Vendor obtaining order for specific performance against purchaser—Purchaser failing to carry out order for specific performance—Whether vendor entitled to damages in lieu of specific performance—Chancery Amendment Act 1858, s 2. **Biggin v Minton** [1977] **2** 647, ChD

SALE OF LAND (cont)
Fraudulent conveyance. *See* **Fraudulent conveyance**.
Part performance of contract—
Generally. *See* **Contract** (Part performance).
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Damages in substitution for specific performance. *See* Damages for breach of contract—Damages in substitution for specific performance, *ante*.
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Subrogation—
Circumstances in which doctrine applicable. *See* **Subrogation** (Circumstances in which doctrine applicable).

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Discretion. *See* **County court** (Costs—Discretion—Scale of costs).
House of Lords—
Taxation of costs—
Increase to scale. *See* **House of Lords** (Costs—Taxation—Increase to scale of costs).

SCIENTIFIC ADVISER
Patents Appeal Tribunal—
Appointment of adviser—
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SEA
Carriage of animals by sea. *See* **Animals** (Carriage by sea, air, road or rail).

SEARCH WARRANT
Police. *See* **Police** (Search warrant).

SEASHORE
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Power to give guidance to authority. *See* **Air traffic** (Civil Aviation Authority—Powers of Secretary of State—Guidance to authority).
National insurance—
Rates of benefit—
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National security—
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SECURITY FOR COSTS
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Privilege against self-incrimination. *See* **Evidence** (Privilege—Incrimination of witness or spouse).

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Conditional discharge—
Right of appeal against order—Defective order—Jurisdiction of court to entertain appeal on ground that order a nullity. **R v Wehner** [1977] **3** 553, CA.
Community service order—
Consecutive orders—
Orders in respect of person already subject to a community service order made by another court—Power to impose an order to run consecutively to first order—Maximum aggregate period of consecutive orders—Powers of Criminal Courts Act 1973, s 14(1). **R v Evans** [1977] **1** 228, CA.
Compensation—
Damage due to accident arising out of presence of vehicle on road—
Limitation of compensation to damage to property recovered in case of offence under Theft Act 1968—Taking motor vehicle without consent—Vehicle taken without consent in collision with other cars—Whether compensation order could be made in respect of damage caused to other cars—Whether compensation order limited to damage caused to vehicle taken without consent—Powers of Criminal Courts Act 1973, s 35(2)(3). **Quigley v Stokes** [1977] **2** 317, QBD.
Conditional discharge—
Appeal. *See* Appeal—Conditional, *ante*.
Explanation of effect of order—
Judge not explaining effect of order to defendant—Judge obtaining undertaking from defendant's counsel to explain effect of order to defendant—Explanation given before order made—Whether court prohibited from delegating function of explanation—Whether order valid—Powers of Criminal Courts Act 1973, s 7(3). **R v Wehner** [1977] **3** 553, CA.

SENTENCE (cont)
Consecutive sentences—
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Magistrates' court—
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Sexual intercourse with girl under 16. *See* **Criminal law** (Sexual intercourse—Girl under 16—Sentence—Imprisonment or fine).
Imprisonment—
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Consecutive terms—Aggregate of terms imposed by court not to exceed six months—Court imposing a term of imprisonment and two fines for three separate offences—Court subsequently fixing terms of imprisonment in default of payment of fines—Terms to run consecutively to each other and to original term of imprisonment—Aggregate of terms fixed in default of payment of fines not exceeding six months—Aggregate of all three terms exceeding six months—Whether order fixing terms in default of payment of fines valid—Magistrates' Courts Act 1952, s 108(1) **R v Metropolitan Stipendiary Magistrate for South Westminster, ex parte Green** [1977] **1** 353, QBD.
Sexual intercourse with girl under 16. *See* **Criminal law** (Sexual intercourse—Girl under 16—Sentence—Imprisonment or fine).
Sexual offences—
Intercourse with girl under 16. *See* **Criminal law** (Sexual intercourse—Girl under 16—Sentence).

SEPARATION
Husband and wife—
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SERVICE
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Employer's rights under service agreement—Payment to employer by employee to secure release from service agreement. *See* **Capital gains tax** (Disposal of assets—Assets—Employer's rights under service agreement with employee—Payment to company by director to secure release from service agreement).
Jurisdiction—
Service out of the jurisdiction. *See* **Practice** (Service out of the jurisdiction).

SERVICES
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Registration. *See* **Restrictive trade practices** (Registration of agreement—Agreement relating to services).

SET-OFF
Assignment of debt—
Right of debtor to set off against assignee sums owed by assignor to debtor. *See* **Chose in action** (Assignment—Debt—Set-off—Right of debtor to set off against assignee sums owed by assignor to debtor).
Cross-claim—
Equitable right of set-off—
When doctrine of equitable set-off applicable—Claim by shipowners for freight—Cross-claim by charterers for short delivery of cargo—Mere existence of cross-claim not a ground for intervention of equity. **Aries Tanker Corporation v Total Transport Ltd** [1977] **1** 398, HL.

SETTING DOWN
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SETTLEMENT
Estate duty—
Property comprised in settlement. *See* **Estate duty** (Property passing on death—Property comprised in a settlement).
Income tax—
Generally. *See* **Income tax** (Settlement).
Income tax appeal—
Settlement by agreement. *See* **Income tax** (Appeal—Settlement by agreement).
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Revocation—
Power to revoke settlement—Release of power—Implied release. *See* **Power** (Implied release—Settlement—Power to revoke settlement).
Trustees—
Residence out of United Kingdom—
Tax avoidance—Transfer of assets abroad—Income payable to persons resident out of United Kingdom. *See* **Income tax** (Avoidance—Transfer of assets abroad—Income payable to persons resident or domiciled out of United Kingdom—Persons resident out of United Kingdom—Settlement—Trustees).

SEX DISCRIMINATION
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Equality of treatment. *See* **Employment** (Equality of treatment between men and women).

SEXUAL INTERCOURSE
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SHIP

Appraisement and sale. *See* **Admiralty** (Appraisement and sale).

Withdrawal from charterparty—

Time charter—

Non-payment of hire. *See* **Shipping** (Time charterparty—Withdrawal of vessel for non-payment of hire).

SHIPPING

Arrived ship under port charterparty. *See* Commencement of lay days—Arrived ship under port charterparty, *post*.

Cargo—

Loss or damage—

Limitation of action—Carrier discharged from liability unless suit is brought within specified time—Effect of expiry of time limit—Whether claim extinguished or merely time-barred—Carriage of Goods by Sea Act 1924, Sch (Hague Rules), art III, r 6. **Aries Tanker Corpn v Total Transport Ltd** [1977] **1** 398, HL.

Charterparty—

Arrived ship under port charterparty. *See* Commencement of lay days—Arrived ship under port charterparty, *post*.

Implied term—

Arrival of ship under port charterparty—Commencement of lay days. *See* Commencement of lay days—Arrived ship under port charterparty—Implied term, *post*.

Time charter—

Generally. *See* Time charterparty, *post*.

Commencement of lay days—

Arrived ship under port charterparty—

Arrival at only and usual waiting place for ships awaiting berth at nominated port—Waiting place outside legal, fiscal and administrative limits of nominated port—Ship at charterer's disposition at waiting place—Waiting place near open sea 40 miles from port—Whether ship an arrived ship on arrival at waiting place. **Federal Commerce and Navigation Co Ltd v Tradax Export SA** [1977] **2** 849, HL.

Implied term—Clause in charterparty that notice could be given 'whether in berth or not'—Port of destination one of ports on River Weser—Arrival of ship at Weser Lightship—Lightship usual and only waiting place for ships awaiting berth at named port—Lightship outside legal, fiscal and administrative limits of port—Whether an implied term of charterparty that ship became an arrived ship on reaching lightship. **Federal Commerce and Navigation Co Ltd v Tradax Export SA** [1977] **2** 849, HL.

Notice of readiness—Clause in port charterparty that notice could be given 'whether in berth or not'—Charterparty on form appropriate to berth charterparty—Arrival of ship at usual and only waiting place for ships awaiting berth at nominated port—Waiting place outside legal, fiscal and administrative limits of port—Whether ship an arrived ship on arrival at waiting place. **Federal Commerce and Navigation Co Ltd v Tradax Export SA** [1977] **2** 849, HL.

Notice of readiness—Ship having to anchor at waiting place outside legal, fiscal and administrative limits of nominated port—Waiting place lightship 40 miles from nominated port—Shipowners undertaking voyage of convenience up river to port and back to lightship to give notice of readiness and constitute vessel an arrived ship—Whether notice of readiness given in course of voyage of convenience constituting ship an arrived ship. **Federal Commerce and Navigation Co Ltd v Tradax Export SA** [1977] **2** 849, HL.

Demurrage—

Commencement of lay days. *See* Commencement of lay days, *ante*.

Freight—

Claim for freight—

Defence—Cross-claim—Loss of cargo—Limitation period for bringing action for loss of cargo having expired—Whether charterers entitled to assert claim by way of defence to claim for freight. **Aries Tanker Corpn v Total Transport Ltd** [1977] **1** 398, HL.

Lay days—

Commencement. *See* Commencement of lay days, *ante*.

Notice of readiness—

Arrived ship under port charterparty. *See* Commencement of lay days—Arrived ship under port charterparty—Notice of readiness, *ante*.

Port charterparty—

Arrived ship under port charterparty—

Commencement of laytime. *See* Commencement of lay days—Arrived ship under port charterparty, *ante*.

Time charterparty—

Withdrawal of vessel for non-payment of hire—

Breach of obligation to pay instalment of hire in advance—Effect of late payment before right of withdrawal exercised—Charter providing that payment to be made 'semi-monthly in advance'—Provision that 'failing the punctual and regular payment of the hire' owners at liberty to withdraw vessel—Charterers tendering payment a day late—Whether owners entitled to exercise right of withdrawal after payment tendered. **Mardorf Peach & Co Ltd v Attica Sea Carriers Corpn of Liberia** [1977] **1** 545, HL.

Waiver of right to withdraw—Acceptance of late payment—Evidence necessary to establish that late payment had been accepted by owners—Receipt of payment by owners' bank—Payment order delivered to owners' bank—Internal processing of order begun as soon as received—Owners instructing bank to refuse money and return it to charterers' bank as soon as informed of receipt of payment—Whether receipt of order and internal processing of payment order constituting acceptance on owners' behalf of late payment. **Mardorf Peach & Co Ltd v Attica Sea Carriers Corpn of Liberia** [1977] **1** 545, HL.

Withdrawal of vessel for non-payment of hire. *See* Time charterparty—Withdrawal of vessel for non-payment of hire, *ante*.

SHORT CAUSES LIST
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SIDENOTE
Statute—
Aid to construction. *See* **Statute** (Construction—Headings and marginal notes).

SINGLE ROOM
Occupier—
Tenant or licensee—
Protected tenancy. *See* **Rent restriction** (Protected tenancy—Tenancy or licence—Occupant of single room).

SLANDER
Generally. *See* **Libel and slander**.

SOCIAL SECURITY
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Supplementary benefit. *See* **Supplementary benefit**.

SOLICITOR
Interrogation of suspect—
Admissibility in criminal proceedings of answers and statements to police—
Right of suspect to consult solicitor. *See* **Criminal evidence** (Admissions and confessions—Answers and statements to police—Right to consult solicitor).
Legal professional privilege—
Generally. *See* **Privilege** (Legal professional privilege).
Matrimonial proceedings—
Acting for petitioner—
Practice. *See* **Practice** (Family Division—Solicitor acting in matrimonial proceedings for petitioner).
Negligence—
Dismissal of action for want of prosecution—
Remedy against plaintiff's solicitors. *See* **Practice** (Dismissal of action for want of prosecution—Remedy against plaintiff's solicitors—Delay caused by negligence of plaintiff's solicitors).

SOLUS AGREEMENT
Implied term—
Circumstances in which term should be implied—
Agreement between supplier and buyer. *See* **Contract** (Implied term—Circumstances in which term should be implied—Solus agreement between supplier and buyer).
Supplier and buyer. *See* **Restraint of trade by agreement** (Supplier and buyer).

SOUTHERN RHODESIA
Constitution—
Unilateral declaration of independence by government—
High Court of Rhodesia—Bankruptcy proceedings—Jurisdiction of English court to act in aid of another British court—Whether High Court of Rhodesia a 'British court'. *See* **Bankruptcy** (Jurisdiction—Jurisdiction to act in aid of another British court—British court—Court which is by its constitution British—Court in British colony—Necessity for court to recognise authority of British Crown—High Court of Rhodesia).

SOVEREIGN
Foreign—
Immunity from suit. *See* **Constitutional law** (Foreign sovereign state—Immunity from suit).

SPECIAL PROCEDURE
Divorce—
Undefended causes. *See* **Divorce** (Practice—Undefended causes—Special procedure).

SPECIAL RESOLUTION
Company. *See* **Company** (Resolution—Special resolution).

SPECIFIC PERFORMANCE
Damages in substitution for specific performance—
Jurisdiction to award damages where court having jurisdiction to entertain application for specific performance—
Want of mutuality precluding court in exercise of discretion from granting decree of specific performance—Specific performance of oral agreement for underlease—Consideration for agreement promise by underlessee to execute repairs—Repairs executed—Underlessor refusing to grant underlease—Underlessee applying for order for specific performance of agreement—Whether court deprived of jurisdiction to entertain application by lack of mutuality at date of contract—Whether court having jurisdiction to enforce contract for execution of repair works—Whether court having jurisdiction to award damages in substitution for specific performance—Chancery Amendment Act 1858, s 2. **Price v Strange** [1977] 3 371, CA
Sale of land. *See* **Sale of land** (Damages for breach of contract—Damages in substitution for specific performance)

SPECIFIC PERFORMANCE (cont)
Mutual availability of remedy—
Date at which defence of want of mutuality should be considered—
Date of contract or date of trial—Plaintiff's obligations under contract not specifically enforceable—Plaintiff's obligations performed at date of trial—Application for specific performance of agreement for underlease—Underlessee agreeing to do repairs to underlessor's property in exchange for grant of new underlease—Repairs executed—Underlessor refusing to grant underlease—Whether underlessee entitled to decree of specific performance—Whether necessary that remedy of specific performance should have been mutually available at date of agreement. **Price v Strange** [1977] **3** 371, CA.
Parties—
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Specified operation comprised in the development—Operation in the course of constructing a road—Road—Private drive—Construction of short section of drive giving access from public road to proposed house—Whether private access drive a 'road'—Town and Country Planning Act 1971, s 43(1)(2)(*d*). **Spackman v Secretary of State for the Environment** [1977] **1** 257, QBD.
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Procedure on appeal—Employment Protection Act 1975, s 8(9). **Blue Circle Staff Association v Certification Officer** [1977] **2** 145, EAT.
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Trust for benefit of unincorporated non-charitable association—Trust funds to be used 'solely in the work of constructing new buildings'—Whether trust unenforceable—Whether void for perpetuity—Whether trust to be construed as an absolute gift to members of association for time being who were entitled to enforce the purpose or to vary it. **Re Lipinski's Will Trusts** [1977] **1** 33, ChD.
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Tenancy in common—Order for sale—Refusal of order where one tenant in possession—estoppel—Proprietary estoppel—Representation on purchase of property that tenant entitled to possession for life rent free—Other tenant in common estopped from dispossessing tenant in possession—Refusal of order for sale when sale would defeat purpose of purchase contemplated by parties to the trust. **Jones (A E) v Jones (F W)** [1977] **2** 231, CA.

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TRUST FOR SALE
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